



**STATE OF WEST VIRGINIA
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

**Sherri A. Young, DO, MBA, FAAFP
Cabinet Secretary**

**Ann Urling
Interim Inspector General**

February 29, 2024



RE: [REDACTED] v. WV DoHS BFA
ACTION NO.: 24-BOR-1530

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Human Services. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Rebecca Wallen, Department Representative

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 24-BOR-1530

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES BUREAU FOR
FAMILY ASSISTANCE,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the Office of Inspector General Common Chapters Manual. This fair hearing was convened on February 29, 2024, on a timely appeal filed February 26, 2024.

The matter before the Hearing Officer arises from the processing of the Appellant's application for Emergency Assistance (EA) payment.

At the hearing, the Respondent appeared by Rebecca Wallen. The Appellant was self-represented. Appearing as a witness for the Appellant was ██████████. All witnesses were sworn and no documents were submitted by either party into evidence.

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant applied for Emergency Assistance (EA) on February 9, 2024.

- 2) The Appellant provided a January 12, 2024 electric bill, noting a January 25, 2024 termination date, to the Respondent on February 9, 2024, indicating his electric bill was in termination status.
- 3) The Respondent worker confirmed with the electric utility that the Appellant's bill was not in termination status on February 9, 2024.
- 4) The Respondent did not deny the Appellant's February 9, 2024 EA application after three business days without a required termination notice.
- 5) The Appellant presented a February 12, 2024 electric bill to the Respondent after his electric service had been terminated.
- 6) The Respondent issued a notice to the Appellant on or about February 26, 2024, requiring the Appellant to provide verification that payment had been made for his portion of the amount required to eliminate the emergency as a condition of the Respondent issuing a voucher for its portion of the Appellant's electric bill.
- 7) The Appellant did not dispute the calculation of the amount needed to eliminate the emergency, the Respondent's potential portion of that amount, or the remainder.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), §20.2.2.A, provides:

An applicant who meets the definition of being faced with an emergency need is one who:

- Is faced with an existing or imminent crisis of a nature that threatens the physical health, safety, and well-being of the applicant and his family; and
- Is without available resources with which he can immediately eliminate an existing crisis or prevent an imminent crisis...

WVIMM, §20.2.4.B.2, provides:

Payment may be authorized for clients who are without utility services or face imminent termination of these services. When a utility service, other than telephone service, has been disconnected, the application for EA must be made within 30 days of the date the service was terminated to meet the emergency need requirement described in Section 20.2.2.A...

...

In determining whether or not the applicant is eligible for payment of utility services, the following requirements must be met:

- The applicant must submit a written notice of termination from the provider that indicates a specific date on which the service was or will be terminated, and the amount of the overdue bill...

WVIMM, §20.2.4.B.3, provides:

In determining the amount of payment, the Worker must consider the following:

...

- The average daily amount of the overdue bill when the overdue billing period exceeds 30 days.
- Reconnection charges required by the utility provider when the service was terminated in the 30 days prior to the date of application.

...

- When the overdue amount covers a billing period greater than 30 days, the Worker determines the average daily amount of the overdue bill. The average daily amount multiplied by 30 days is the maximum amount of the EA payment...

WVIMM, §20.2.2.H.3, provides:

All applicants for EA must cooperate in a reasonable manner by accepting a referral to a community resource in order to eliminate or prevent an emergency...

All applicants who are referred to a community resource, but who do not receive the resource, must contact the Worker by the due date on the referral notification form...

WVIMM, §20.2.3.E, provides (emphasis added):

The worker must approve or deny the application in the eligibility system. A decision must be made on all applications as soon as possible, if the emergency currently exists, or prior to an imminent emergency **but no later than three business days from the date of application.**

DISCUSSION

The Appellant requested a hearing regarding the processing of his application for Emergency Assistance (EA) benefits. The Respondent must show, by a preponderance of the evidence, that it acted correctly in connection with the Appellant's EA application.

The Appellant applied for EA on February 9, 2024. The Appellant contended that when he applied, he had a termination notice for his electric bill. The Respondent worker communicated with the electric utility and determined that the bill presented on February 9, 2024, was not a termination notice. The utility reported it would be rechecking the electric meter for the Appellant's account and issuing a later bill which would have a valid service termination date. At that time, the Appellant had applied for EA, but without a valid termination notice he did not meet the policy requirement for being 'faced with an emergency need.' The Appellant did not provide a new bill within three business days and the Respondent should have denied the Appellant's February 9, 2024 application for EA at that time, but did not.

The utility sent the Appellant a new bill on February 12, 2024, and had terminated the Appellant's service by February 26, 2024, when the Appellant resumed the EA application process on an application that should have been processed as a denial. The Respondent provided testimony that they correctly determined the potential EA payment amount, following policy requirements that require obtaining the bill duration and determining the 30-day portion from that duration, allow the consideration of a reconnect fee but not a deposit, and require a referral to community agencies to provide the remainder. The Respondent cannot pay EA when the EA payment amount alone will not resolve the emergency. The Respondent, therefore, was correct to request verification that the Appellant cooperate with the community resource or referral agency to obtain and pay the remainder amount before the Respondent could issue a voucher for their potential EA payment amount. Testimony from the Appellant indicated he was confused about how much of this process could be conducted by phone. Testimony from the Appellant regarding what he claimed a Respondent worker told him about the EA application process was given reduced weight because it is hearsay, but was ultimately given no consideration because the testimony contradicted procedural requirements for completing the application and obtaining a voucher.

Testimony from the Appellant did not address the February 26, 2024, verification checklist requirements to obtain outside resources, except to state that he called the community agency and was told they did not have funds to assist, and to state that his neighbor has since paid the utility bill in question. The Respondent ultimately should have denied the Appellant's February 9, 2024 EA application because it lacked verification of an emergency need at that time. Because the Respondent was lenient in its processing of the Appellant's EA application, it presented the Appellant with a February 26, 2024 verification checklist in conjunction with a February 9, 2024 EA application; this extension has no effect on the underlying policy requirements (for the Appellant's portion – or the total amount necessary to satisfy the emergency, minus the amount potentially available from an EA payment) necessary to perfect the EA application. The Respondent was correct to require proof of this payment as a condition of approval for a potential EA payment amount.

CONCLUSIONS OF LAW

- 1) Because the Appellant lacked proof of an emergency need at the time of his February 9, 2024 application for EA, the Respondent should have denied this application within three (3) business days, counting the date of application as day one (1).
- 2) Because the Respondent left this application open and accepted a subsequent utility termination notice as proof of an emergency need, the Respondent must have proof that EA approval will fully eliminate the emergency need.
- 3) To determine that EA approval will satisfy the emergency need, the Respondent must refer the Appellant to outside community agencies for the difference between the potential EA payment amount and the full amount necessary to eliminate the emergency.
- 4) The Respondent correctly issued a verification checklist to confirm that the Appellant would comply with his policy requirement to cooperate with a community agency to obtain the full amount necessary to meet his emergency need.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the actions of the Respondent regarding the processing of the Appellant's EA application.

ENTERED this _____ day of February 2024.

**Todd Thornton
State Hearing Officer**