



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
PO Box 6165  
Wheeling, WV 26003**

**Joe Manchin III  
Governor**

**Martha Yeager Walker  
Secretary**

August 17, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 17, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for emergency assistance.

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 Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Emergency Assistance Program is based on current policy and regulations. Some of these regulations state as follows: The Worker must determine availability of income to the applicant and all other members of the AG. All countable gross income received by any member of the AG beginning with date of application and ending 29 days later must be counted in determining eligibility for Emergency Assistance. The total countable gross income of all members of the AG is compared to the Monthly Allowable Income Schedule in Appendix A. (Section 19.2 5a WV Income Maintenance Manual)

The information which was submitted at your hearing revealed that you made an application for emergency assistance 08/09/06 for rent. Your total anticipated household income exceeded the Emergency Assistance Program limits of \$566 for the next 30 days.

It is the decision of the State Hearing Officer to uphold the action of the Department to deny your application for emergency assistance.

Sincerely,

Melissa Hastings  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Carole Jean Bartok, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
BOARD OF REVIEW**

\_\_\_\_\_ **Claimant,**

**Action Numbers: 06-BOR-2629**

**v.  
West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on August 17, 2006 for \_\_\_\_\_. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on August 17, 2006 on a timely appeal, filed August 9, 2006.

It should be noted here that the claimant's benefits have been denied.

**II. PROGRAM PURPOSE:**

The Program entitled Emergency Assistance is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

Emergency Financial Assistance is used to assist individuals and families in meeting a financial crisis when they are without available resources. The program is designed to provide short-term emergency financial assistance with which eligible individuals and families may obtain items or services needed to eliminate an emergency or crisis. Those who are in need of and qualify for emergency financial assistance may already be participating in an economic or social service program.

**III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
\_\_\_\_\_, Claimant's Son Observing  
Carole Jean Bartok, Department Hearing Representative

Presiding at the Hearing was Melissa Hastings, State Hearing Officer and a member of the State Board of Review.

#### **IV. QUESTIONS TO BE DECIDED:**

The question(s) to be decided is whether the Department was correct in the decision to deny the claimant's application for emergency assistance because claimant's household income exceeded the emergency assistance program guidelines.

#### **V. APPLICABLE POLICY:**

Section 19.2 of the West Virginia Income Maintenance Manual

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1 Emergency Assistance-Homeless-NEMT Application and Transmittal Form signed 8/09/06
- D-2 Letter from \_\_\_\_\_-General Manager [REDACTED] Restaurant
- D-3 WVDHHR New Employment Verification signed by \_\_\_\_\_- Training Coordinator for [REDACTED] Restaurant dated 8/7/06
- D-4 WVDHHR New Employment Verification signed by \_\_\_\_\_Assistant General Manager [REDACTED] Restaurant dated 8/08/06
- D-5 Form IM-FH-1 signed by \_\_\_\_\_ dated 8/09/06
- D-6 Portions of Chapter 19.2 and Appendix A, Chapter 19 of the West Virginia Income Maintenance Manual

##### **Claimant's Exhibits:**

None

#### **VII. FINDINGS OF FACT:**

- 1) The claimant applied for emergency assistance for help with her rent and deposit on 08/09/06.
- 2) There are three individual in the Assistance Group (AG). They are \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ (claimant's son).
- 3) Both Ms. \_\_\_\_\_ and Mr. \_\_\_\_\_ started recent employment. Ms. \_\_\_\_\_ began employment with [REDACTED] Restaurant on August 8, 2006. Her first day of actual work was August 10, 2006. Mr. \_\_\_\_\_ started employment with [REDACTED] Restaurant on August 7, 2006.

4) Verification of new employment was secured on both Ms. \_\_\_\_\_ and Mr. \_\_\_\_\_. New Employment Verification form (D3) for Mr. \_\_\_\_\_ indicates that Mr. \_\_\_\_\_ will work approximately 30 hours per week at \$6.75 per hour. New Employment Verification form (D4) for Ms. \_\_\_\_\_ indicates that Ms. \_\_\_\_\_ will work 25 hours per week and receive \$2.13 per hour plus tips. Additional income verification was also received from the General Manager of \_\_\_\_\_ for Ms. \_\_\_\_\_'s wages. This verification (D2) indicates that Ms. \_\_\_\_\_ will receive \$5.15 per hour while undergoing training and after training will receive \$2.13 plus tips.

5) Income Maintenance worker \_\_\_\_\_'s testimony reveals that she contacted both employers via the telephone to determine the number of pays each would receive within the next 29 days. Mr. \_\_\_\_\_ is to receive 3 pays within the next 29 days. Pay dates will be August 17, August 24, and August 31. Ms. \_\_\_\_\_ is to receive 3 pays within the next 29 days. Pay dates will be August 21, August 28 and September 4.

6) Based on this information Ms. \_\_\_\_\_projected claimant's anticipated income for the next 29 days as follows:

Mr. \_\_\_\_\_ – 30 hours per week @ \$6.75 per hour equals \$203 per pay. \$203 pay times 3 pays anticipated equals \$609.

Ms. \_\_\_\_\_ – 25 hours per week @ \$2.13 per hour equals \$53 per pay. \$53 pay times 3 pays anticipated equals \$159.

Total household income \$609 plus \$159 equals \$768.

7) Ms. \_\_\_\_\_'s testimony indicates that the anticipated income for Mr. \_\_\_\_\_ was not accurate. His first pay was to be received on the date of this hearing and was for only 6 hours. She does indicate that he is now working regularly and the pays indicated on the pay verification should be accurate for future pays. To date Ms. \_\_\_\_\_ indicates that she has been in training at \$5.15 per hour and will receive her first pay on August 21 for 7.5 hours. She anticipates working regularly now that day care arrangements have been made for her son. She agrees that income verification of \$2.13/hour plus tips would be accurate for future earnings.

8) Basing anticipated wages on Ms. \_\_\_\_\_'s testimony results in the following anticipated household income:

Mr. \_\_\_\_\_ – August 17 pay 6 hour pay @ \$5.15 training pay equals \$30.90 plus two pays @ \$203 equals total anticipated pay for 29 day period of \$436.90

Ms. \_\_\_\_\_ – August 21 pay 7.5 hour pay @ \$5.15 training pay equals \$38.62 plus two pays @ \$55 equals total anticipated pay for 29 day period of \$148.62.

Total anticipated household income for next 29 days equals \$585.52.

- 9) Section 19.2C #5(a) of the West Virginia Income Maintenance Manual reads in part that the Worker must determine availability of income to the applicant and all other members of the AG. All countable gross income received by any member of the AG beginning with date of application and ending 29 days later must be counted in determining eligibility for Emergency Assistance. The total countable gross income of all members of the AG is compared to the Monthly Allowable Income Schedule in Appendix A.
- 10) Appendix A of Chapter 19 of the West Virginia Income Maintenance Manual shows the maximum allowable gross income for a household of 3 for the Emergency Assistance Program is \$566.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Department policy requires all household income that can be anticipated to be received on the date of application and within the next 29 days following the date of application be utilized when determining eligibility for the Emergency Assistance Program.
- 2) Documentary evidence and testimony received during this hearing indicate that the total Household income that could be reasonably anticipated would exceed the program guidelines established for Emergency Assistance.

### **IX. DECISION:**

It is the finding of the State Hearing Officer to uphold the Department's decision to deny the claimant's application for emergency assistance.

### **X. RIGHT OF APPEAL:**

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 17<sup>th</sup> day of August, 2006.**

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**Melissa Hastings  
State Hearing Officer**