



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street West
Charleston, WV 25313

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

January 30, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 30, 2007. Your hearing request was based on the Department of Health and Human Resources' refusal to allow you to apply for the 20% Utility Discount Program.

In arriving at a decision, the State Hearings 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 and Special Assistance Programs is based on current policy and regulations. Some of these regulations state as follows:

During the months of November through March, certain recipients of SSI, WV WORKS and certain Food Stamp recipients who are age 60 or older are eligible for a 20% discount from their gas and electric companies. The Department's role is to send application kits to recipients of the qualifying benefits and to supply the utility companies with lists of customers who have become ineligible.

The information submitted at your hearing revealed: (1) You had a right to apply for any programs offered by the Department of Health and Human Resources, and (2) The Department did not provide you with an application because you did not meet the eligibility criteria.

It is the decision of the State Hearings Officer to **UPHOLD** in part based on the Claimant's ineligibility, and **REVERSES** in part the action to deny the Claimant the right to apply for a Departmental Program.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Ms. Danita Jones, DHHR Policy Unit

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

_____,
Claimant,

v.

Action Number: 06-BOR-3416

**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 January 30, 2007 for Ms. _____. 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 January 30, 2007 on a timely appeal filed December 15, 2006.

It should be noted here that the Claimant was receiving Food Stamps, LIEAP, and Medicaid benefits at the time of the hearing decision.

II. PROGRAM PURPOSE:

The Program entitled Emergency and Special Assistance Programs 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
Danita Jones, DHHR Policy Unit

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is: (1) Did the Claimant have a right to apply for a Departmental Program, and (2) Did the Claimant meet the eligibility criteria for the 20% Utility Discount Program?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual 1.2 (A) (1) GENERAL INFORMATION – Right To Apply, and West Virginia Income Maintenance Manual 19.7 (A) (1 & 2) PUBLIC UTILITY PROGRAMS - SPECIAL REDUCED RESIDENTIAL SERVICE RATE (20% UTILITY DISCOUNT PROGRAM) – Introduction.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 West Virginia Income Maintenance Manual 19.7 (A) (1 & 2) PUBLIC UTILITY PROGRAMS - SPECIAL REDUCED RESIDENTIAL SERVICE RATE (20% UTILITY DISCOUNT PROGRAM) – Introduction.

Claimants' Exhibits:

C-1 Letter from Mountaineer Gas dated 01/04/07
C-2 Mountaineer Gas Company Flier

VII. FINDINGS OF FACT:

1. West Virginia Income Maintenance Manual 19.7 (A) (1 & 2) PUBLIC UTILITY PROGRAMS - SPECIAL REDUCED RESIDENTIAL SERVICE RATE (20% UTILITY DISCOUNT PROGRAM) – Introduction states:

A. SPECIAL REDUCED RESIDENTIAL SERVICE RATE (20% UTILITY DISCOUNT PROGRAM)

1. Introduction

During the months of November through March, certain recipients of SSI, WV WORKS and certain Food Stamp recipients who are age 60 or older are eligible for a 20% discount from their gas and electric companies. The Department's role is to send application kits to recipients of the qualifying benefits and to supply the utility companies with lists of customers who have become ineligible for the discounts because they have ceased receiving the qualifying benefits.

In October application kits are mailed from the State Office to recipients of SSI, WV WORKS and recipients of Food Stamps who are age 60 or older.

During the program months (November through March), application kits are mailed by the State Office to new and reopened cases that are approved for the qualifying benefits.

During the program months, an application will be mailed by the State Office to an individual who requests an application if he is a recipient of a qualifying benefit and has lost or failed to receive his original application kit. If he is not a recipient of a qualifying benefit, he will receive a notice from the State Office explaining why he is not eligible for the discount.

The client completes the application and submits it to the utility company.

The utility company determines eligibility for the discount and applies the reduced rate to the eligible client's account. Approved applications are sent by the utility company to the State Office.

Each month the State Office sends to each participating utility company a list of its customers who have become ineligible for the discount because they are no longer receiving the qualifying benefits. The company will then remove the discount from those accounts.

After March, all discounts are removed by the companies.

2. West Virginia Income Maintenance Manual 1.2 (A) (1) GENERAL INFORMATION – Right To Apply states in part:

No person is denied the right to apply for any Program administered by the Division of Family Assistance. Every person must be afforded the opportunity to apply for all Programs on the date he expresses his interest.

3. Testimony from the Claimant revealed she attempted to apply for the 20% Utility Discount Program in September 2006. She was denied an opportunity to apply for the Program by the interviewing case worker.
4. Further testimony from the Claimant revealed she contacted the Department's Client Services Unit and requested a Fair Hearing.
5. The Policy Worker testified that the Department would deny the application when client's do not meet the eligibility criteria listed in West Virginia Income Maintenance Manual Section 19.7 (A) (1 & 2) PUBLIC UTILITY PROGRAMS - SPECIAL REDUCED RESIDENTIAL SERVICE RATE (20% UTILITY DISCOUNT PROGRAM) – Introduction.
6. The Claimant is not receiving SSI, WV WORKS, or a recipient of Food Stamps who is age 60 or older.
7. The Claimant receives alimony payments and Social Security Disability benefits. The Claimant believes she is being discriminated against because she does not receive SSI.

8. The Claimant provided a January 4, 2007 letter from the Utility Company thanking her for contacting their Customer Service Center (C-1).
9. The flier from the Utility Company (C-2) lists the same eligibility information as stated in Exhibit D-1.
10. The State Hearing Officer rendered a decision on the eligibility criteria at the conclusion of the hearing, and encouraged the Claimant to seek appropriate recourse.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant had a right to apply for any Departmental Program administered by the Division of Family Assistance, and
- 2) The Claimant did not meet the eligibility criteria for the 20% Utility Discount Program.

IX. DECISION:

It is the decision of the State Hearing Officer to **UPHOLD** in part based on the Claimant's ineligibility, and **REVERSES** in part the action to deny the Claimant the right to apply for a Departmental Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of January, 2007.

Ray B. Woods, Jr., M.L.S.
State Hearing Officer