



May 1, 2025

REMOVED

RE: **REMOVED** v. WV DoHS
ACTION NO.: 25-BOR-1901

Dear **REMOVED**

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 ensure that all people 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,

Tara B. Thompson
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Rachell Hruschak, **REMOVED** DoHS

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

REMOVED

Appellant,

v.

Action Number: 25-BOR-1901

**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 **REMOVED**. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on April 30, 2025.

The matter before the Hearing Officer arises from the Respondent's denial of the Appellant's eligibility for Emergency Assistance.

At the hearing, the Respondent appeared by Rachell Hruschak, Economic Service Worker. The Appellant appeared and represented himself. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual (WVIMM) excerpts
- D-2 DoHS Notice of Decision, dated April 25, 2025
- D-3 WVIMM Income Chart

Appellant's Exhibits:

None

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) benefits for a one-person Assistance Group (AG) because his electric was terminated.
- 2) The Appellant receives \$927 in monthly Supplemental Security Income (SSI).
- 3) On April 25, 2025, the Respondent mailed a *Notice of Decision* advising the Appellant his EA application was denied because his \$927 countable income exceeded the \$861 EA eligibility limit (Exhibit D-2).

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) Chapter 20, Appendix A *Emergency Assistance Income Limits* and Chapter 4, Appendix A *Income Limits* provides that for a one-person AG, to be eligible for EA benefits, the household's income cannot exceed \$861.

WVIMM § 20.2.2.F.1 *Income Policy* provides that the Worker must determine availability of income to the applicant and all countable gross income received, beginning with the date of application and ending 29 days later, must be counted in determining eligibility for EA.

When considering countable income to determine eligibility, the Worker must compare the total countable gross income to the Monthly Allowable Income Schedule in Appendix A.

WVIMM § 20.2.2.F.2 *Determination of Countable Income — Income Exclusions* provides that when determining eligibility for EA, the following sources of income are excluded:

- All student loans, grants, scholarships, and college work-study programs.
- Any payments made to volunteers under Title II, Retired Senior Volunteer Program (RSVP), Foster Grandparents, Title III SCORE and AmeriCorps Community Enrichment Programs (ACE), and other programs of the Domestic Volunteer Service Act of 1973.
- Payments, allowances, or reimbursements for participants in programs administered by the Corporation for National and Community Services (CNCS)
- Payments under the Alaskan Native Claims Settlement Act.
- Any payments received or funds held in trust for members of any Indian tribe under Public Laws: 98-64, 97-458, 98-123, and 98-124
- Payments to Nazi Persecution Victims ...
- Payments from the Radiation Exposure Compensation Trust Fund.
- Payments from the Senior Companion Program funded under Title XX.
- SNAP benefits.
- The value of supplemental food program for Women, Infants, and Children (WIC) ...
- Value of National School Lunch Program ...
- Japanese American and Aleutian Restitution payments.
- North Vietnam — Department of Defense payments ...
- Payment, allowances, or reimbursements for transportation and attendant care costs ...

- Payments from Community Service Employment Program (CSEP) ...
- Income tax refunds and rebates.
- Reimbursement for expenses incurred in connection with employment and/or training, limited to mileage, tools, and clothing.
- Reimbursement for medical expenses or transportation costs incurred to obtain medical treatment.
- Grants and loans from the U.S. Department Housing and Urban Development (HUD) Community Development Block Grant Funds made to individuals to rehabilitate their private residence.
- All Workforce Innovation and Opportunity Act (WIOA) payments ...
- Victim Compensation Payments.

The only income deductions permitted are for self-employment The total countable income of the entire AG must be considered.

WVIMM § 20.2.4.B.2 Utilities and Bulk Fuel — General Requirements provides that payment may be authorized for clients who are without utility services or who face imminent termination of these services.

DISCUSSION

The Respondent denied the Appellant's eligibility for EA benefits because the Appellant's monthly SSI income exceeded the EA benefit eligibility limit.

The Board of Review does not have the authority to change income eligibility limits, apply income exclusions or deductions, or award benefit eligibility beyond the provisions established within the controlling policy. The Respondent bears the burden of proof and had to demonstrate by a preponderance of evidence that the Appellant's income exceeded the \$861 EA eligibility limit for a one-person assistance group.

According to the policy SSI income must be considered when determining a household's eligibility for EA benefits. The Appellant did not contest the use or amount of income used to determine his eligibility but argued that the eligibility limit was insufficient. During the hearing, the Appellant argued that his electric costs are 95% of his monthly income. The Appellant testified that his electric bill is \$895, and his monthly income is \$927.

During the hearing, the Appellant argued that the same EA income limit would not apply in other states and inquired about who sets the EA benefit eligibility limit. The Respondent's representative testified that she believed that the federal government sets the income eligibility limit for EA benefits. She was unable to provide the applicable controlling regulation during the hearing. The Respondent's policy is silent regarding the controlling regulating authority for setting the EA income limits; however, WVIMM § 20.2.2.N stipulates that EA payments are 100% state funded.

Regardless of whether EA income limits are set by state or federal authorities, the Board of Review cannot make changes to the EA income eligibility requirements within the policy. The

preponderance of evidence established that the Appellant's income exceeded the established EA eligibility income limit.

CONCLUSIONS OF LAW

- 1) To be eligible for Emergency Assistance benefits, a one-person household's monthly income could not exceed \$861.
- 2) Supplemental Security Income (SSI) must be considered when determining eligibility for Emergency Assistance (EA) benefits.
- 3) The preponderance of evidence demonstrated that the Appellant's \$927 monthly SSI income exceeded the \$861EA benefit eligibility income limit.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's denial of the Appellant's eligibility for Emergency Assistance benefits.

ENTERED this 1st day of May 2025.

Tara B. Thompson
State Hearing Officer