



STATE OF WEST VIRGINIA
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

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

Ann Vincent-Urling
Interim Inspector General

March 12, 2024



RE: [REDACTED] v. WV DEPARTMENT OF HUMAN SERVICES BUREAU
FOR FAMILY ASSISTANCE
ACTION NO.: 24-BOR-1520

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 ensure 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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Laurette Mincey, [REDACTED] DoHS

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

██████████,

Appellant,

v.

Action Number: 24-BOR-1520

**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 March 12, 2024, on an appeal filed on February 23, 2024.

The matter before the Hearing Officer arises from the February 13, 2024, decision by the Respondent to deny the Appellant's application for Low Income Energy Assistance Program (LIEAP) benefits.

At the hearing, the Respondent appeared by Laurette Mincey, Economic Services Supervisor. The Appellant appeared by ██████████, his landlord. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

None

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 Respondent mailed a LIEAP application to the Appellant based upon his receipt of LIEAP benefits the previous year.
- 2) Included with the LIEAP application was a letter explaining that the application must be submitted by January 26, 2024.
- 3) The Respondent received the Appellant's completed LIEAP application on February 1, 2024.
- 4) The Respondent issued a notice to the Appellant on February 23, 2024, advising that his application had been denied as the application was received after the due date.
- 5) The open intake period for LIEAP applications started on February 26, 2024.
- 6) The Appellant reapplied for LIEAP for electricity on February 26, 2024.
- 7) The Appellant indicated on the application that his landlord, [REDACTED], paid the electric bill, which is in [REDACTED] name.
- 8) The Respondent denied the Appellant's February 26, 2024, LIEAP application as he is not responsible for paying for his home heating source.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 21 explains LIEAP eligibility:

21.1 Introduction

The program is time-limited and dependent on the availability of federal funds. It is subject to closure without prior notice when funds are deemed to have been exhausted. Funds are normally disbursed on a first-come, first-served basis, but may also be subject to disbursement based on need.

21.4.1 Mail-Out Applications

The LIEAP mail-out contains an application form (DFA-LIEAP-1), an instruction sheet (DFALIEAP-1a). It is mailed to any household which received LIEAP during the previous LIEAP season. These applications are mailed prior to the program start date. The client may choose to return the completed form and information by mail or complete it online by use of West Virginia WV PATH.

21.4.2 Outreach

Outreach is a federal requirement to ensure that potentially eligible, low-income assistance groups (AGs) are made aware of and encouraged to apply for benefits. Outreach is accomplished as follows:

- DHHR mails applications as described above.
- DHHR provides LIEAP informational leaflets to all appropriate agencies and interested individuals.
- DHHR contracts with Area Agency on Aging (AAA) offices and the West Virginia Office of Economic Opportunity (WVOEO), which permit senior citizen centers, local Community Action Agencies, homeless shelters, and other interested parties to receive LIEAP applications and information and referral services as desired. These are referred to as Sub-Grantee Agencies.
- Information and referral service organizations

21.4.3 Open Application Intake Period

During the annual open application intake period, clients who did not receive a LIEAP mail-out application may apply for LIEAP at their local DHHR office or at any of the outreach locations listed above. The application is also available and may be completed through WV PATH.

21.3.1.C Vulnerability to Cost of Home Heating

In order to qualify for a LIEAP payment, an assistance group (AG) must be determined vulnerable or partially vulnerable to the cost of home heating.

21.3.1.C.1 Vulnerable AGs

Vulnerable AGs are those which must pay the primary heating cost for the home in which they reside. The expense for heating must be billed separately from the rent or mortgage payment of the residence, even if the AG combines these payments. When payments are combined, the amount billed for the heating cost must be stated on a rent receipt, lease, or other documentation. NOTE: AGs that have utilities included in their rent but are not billed separately for a heating cost are not eligible for LIEAP.

AGs may also be considered vulnerable if there has been a documented increase in rent or mortgage payment due to increased fuel costs. The increase does not have to be permanent if the only reason for the increase is winter heating. Clients who are temporarily away from home for medical, educational, or employment purposes, and who still must pay a heating cost for the dwelling, are considered vulnerable. This includes nursing home residents who are still maintaining a home and have a heating cost. Vulnerability also exists when the AG must pay at least a part of the cost of home heating, whether they pay just part of the cost each month or alternate payments with a third-party. The AG is partially vulnerable when a surcharge for excessive usage is already added or can reasonably be anticipated to be added to the rent amount.

21.3.1.C.2 Invulnerable AGs

Invulnerability means the AG has no home heating costs or is not responsible for payment of the heating cost. Clients who live in state institutions, hospitals and certain group living facilities, such as halfway houses and domestic violence centers, and those whose home heating costs are paid by a third-party, are considered invulnerable.

21.3.1.C.6 Zero Income Clients

When zero income clients report that their home heating costs are being paid by someone else, vulnerability can be determined by the manner in which the heating costs are being paid.

- **Clients who report zero income but have someone else not living in the household who makes payment for the entire cost of home heating to the vendor on behalf of the client are considered invulnerable and therefore ineligible for LIEAP benefits** (emphasis added).

DISCUSSION

LIEAP applications are mailed to households who received LIEAP benefits the previous year as part of an outreach program and are mailed prior to the program start date. Applications that are mailed to previous LIEAP recipients must be submitted by the deadline established on the outreach form.

The Appellant was a previous LIEAP recipient and was mailed a LIEAP application to be returned no later than January 26, 2024. The Respondent denied the Appellant's application when the application was received on February 1, 2024, after the outreach program deadline.

The Appellant's representative, [REDACTED], did not contest that the LIEAP application was submitted untimely. [REDACTED] testified that the Appellant placed the application in his mailbox for his postal carrier to mail, but claimed the postal carrier never retrieved the application for delivery.

LIEAP is a time-limited program and is dependent on the availability of federal funds. It is subject to closure without prior notice when funds are deemed to have been exhausted. Applications that were mailed to previous LIEAP recipients were due by January 26, 2024. The Appellant did not submit her application until after the January 26, 2024, deadline.

Policy stipulates to qualify for a LIEAP payment, the assistance group must be vulnerable or partially vulnerable to the cost of home heating. Vulnerable assistance groups are those that must pay the primary heating cost for the home in which they reside. An individual who has someone else not living in the household who makes the payment for the entire cost of home heating to the vendor on behalf of the client is considered invulnerable and therefore ineligible for LIEAP benefits.

[REDACTED] testified that the Appellant resides in a home that he owns, and the Appellant mows the grass and performs other odd jobs in exchange for rent. [REDACTED] stated the electric bill is in his name and he pays the electric bill throughout the year. [REDACTED] testified that the Appellant usually heats his home with kerosene that he purchases with LIEAP payments, but he ran out of kerosene, and has no income to purchase more. At some point, [REDACTED] stated the Appellant started using the electric baseboard heaters to heat the home, which has increased the electric bill. [REDACTED] contended that the Appellant is ultimately responsible for the cost of heating his home although he could not explain why the Appellant did not apply for LIEAP assistance for kerosene.

Whereas the Appellant failed to submit his application before the outreach program deadline of January 26, 2024, the Respondent's decision to deny the Appellant's February 1, 2024, LIEAP application is affirmed. The Appellant applied for LIEAP benefits for electricity on February 26, 2024. The Appellant's landlord pays the electric bill on behalf of the Appellant, therefore the Appellant is considered invulnerable to his home heating cost. The Respondent's decision to deny the Appellant's February 26, 2024, LIEAP application is affirmed.

CONCLUSIONS OF LAW

- 1) LIEAP is a time-limited program and is dependent on the availability of federal funds. It is subject to closure without prior notice when funds are deemed to have been exhausted.
- 2) Applications that were mailed to previous LIEAP recipients were due by January 26, 2024.
- 3) The Appellant's application was not received until February 1, 2024.
- 4) The Respondent's denial of the Appellant's February 1, 2024, LIEAP application was in accordance with policy.
- 5) The Appellant reapplied for LIEAP benefits for electricity during the open intake period on February 26, 2024.
- 6) The Appellant's electric bill is paid by [REDACTED] who does not reside in the Appellant's home.
- 7) The Appellant is invulnerable to his home heating cost and ineligible for LIEAP.
- 8) The Respondent's denial of the February 26, 2024, LIEAP application is affirmed.

DECISION

It is the decision of the State Hearing Officer to **uphold** the action of the Respondent to deny the Appellant's February 1, 2024, and February 26, 2024, applications for Low Income Energy Assistance Program benefits.

ENTERED this 12th day of March 2024.

Kristi Logan
Certified State Hearing Officer