



March 28, 2024

[REDACTED]

re: [REDACTED] v. WV DoHS BFA
ACTION NO: 24-BOR-1601

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 Health and 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,

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

Encl: Decision Recourse
Form IG-BR-29
CC: Priscilla Steele, DoHS

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-1601

**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 Board of Review’s Common Chapters Manual. This fair hearing was convened on March 20, 2024.

The matter before the Hearing Officer arises from the Respondent’s refusal to allow the Appellant to apply for Low Income Energy Assistance Program Allowance (LIEAP) benefits.

At the hearing, the Respondent was represented by Priscilla Steele, ██████████ DoHS. The Appellant appeared and represented herself. All 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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant did not receive LIEAP benefits in 2023.
- 2) The Appellant was a recipient of the Supplemental Nutrition Assistance Program (SNAP) and Medicaid benefits.
- 3) On January 12, 2024, the Respondent verbally advised the Appellant of the LIEAP program and her responsibility to call weekly to assess the opening of the LIEAP application period each Monday.
- 4) After January 12, 2024, the Appellant routinely called and visited the Respondent to communicate regarding her benefit programs.
- 5) The Respondent accepted LIEAP applications between February 26 and March 1, 2024.
- 6) The Appellant contacted the Respondent on January 22, 25, and 29, 2024, and on February 5, 12, 14, 19, and 26, 2024, to inquire about the LIEAP application period opening. The Respondent advised the Appellant each time that the LIEAP enrollment period had not begun.
- 7) On February 26, 2024, although the Appellant expressed interest in applying for Regular LIEAP benefits, she did not apply because the Respondent advised her that the LIEAP enrollment period had not begun.
- 8) On March 4, 2024, the Appellant expressed interest in applying for Regular LIEAP benefits but was denied an application by the Respondent because the LIEAP enrollment period had passed.
- 9) On March 4, 2024, the Appellant submitted a written request for a fair hearing.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.1.A *Right to Apply* provides in relevant sections: In addition to addressing all questions and concerns the client may have, the Worker must explain the benefits of each program and inform the client of his right to apply for any or all of them. No person is denied the right to apply for any program administered by the Division of Family Assistance (DFA) or the Bureau for Medical Services (BMS). Every person must be allowed to apply for all programs on the date he expresses his interest.

WVIMM § 21.1 *Introduction* provides in relevant sections:

The Low-Income Energy Assistance Program (LIEAP) provides financial assistance to eligible Assistance Groups (AGs) responsible for a home heating cost. It is not the purpose of this program to meet the entire cost of home heating during the winter season; it is designed to partially offset the cost.

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.

Program operation is accomplished by automatic payments, mail-out applications, outreach, and an open application intake period for both Regular and Emergency LIEAP.

WVIMM § 21.4.3 *Open Application Intake Period* provides in relevant sections:

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

WVIMM § 21.4.5 *DoHS Responsibilities* and § 21.4.6 *Applying for Benefit* provides in relevant sections: The Worker is responsible for processing the application in the eligibility system. Regular LIEAP applications may be mailed or delivered at the local DoHS office. Applications may also be submitted by use of WV PATH or the DoHS website.

DISCUSSION

The Respondent's representative testified that the Appellant was denied the right to apply for Regular LIEAP benefits on March 4, 2024 because the annual open application intake period had ended. The Appellant argued that she also called during the open application intake period and was denied the right to apply.

The policy stipulates that no person is denied the right to apply for any program administered by the Division of Family Assistance (DFA) and must be allowed to apply for all programs on the date they express interest. During the annual open application intake period, clients who did not receive a LIEAP mail-out application may apply for LIEAP at their local DoHS office, outreach location, or via WV PATH. The Regular LIEAP program is time-limited, dependent on the availability of federal funds, and is subject to closure without prior notice when funds have been exhausted.

The Respondent has the burden of proof and had to demonstrate by a preponderance of evidence that the Appellant was not denied the right to apply for Regular LIEAP during the annual open application intake period. During the hearing, the Respondent's representative testified that LIEAP applications were accepted from February 26 through March 1, 2024.

The testimony revealed that the Respondent's representative verbally advised the Appellant, on January 12, 2024, to call in weekly to assess whether the LIEAP annual open application intake period had begun. While the policy stipulates that LIEAP may be applied for in-person or via WV PATH, no testimony or documents were submitted to verify that the Respondent had verbally advised the Appellant that she could apply for LIEAP via WV PATH.

During the hearing, the Appellant argued that she called the Respondent weekly after the Respondent advised her on January 12, 2024, to do so. The Appellant argued that she timely fulfills her responsibilities and routinely calls and visits the Respondent to communicate regarding her benefit programs. During the hearing, the Appellant testified that she called the Respondent to inquire about the LIEAP annual open application intake period on January 22, 25, and 29; February 5, 12, 14, 19, and 26; and March 4, 2024. The Appellant argued that on February 26, 2024, she was advised that the LIEAP program was not open.

The Respondent's representative did not refute the Appellant's argument and testified that the receptionists who would have taken the Appellant's calls do not record case comments in the Appellant's case record. The Respondent's representative testified that she received the Appellant's March 4, 2024 email, met with the Appellant, assisted the Appellant in requesting a fair hearing, and made a case comment. The Respondent's representative testified that there were no other case comments present to indicate whether the Appellant had expressed interest in applying for LIEAP. During the hearing, the Respondent's representative testified that she agreed with the Appellant's testimony that the Appellant has communicated "a lot" with the Respondent. As the Respondent's representative's testimony corroborates the Appellant's assertion of her efforts to apply for LIEAP, the Appellant's testimony was found to be reliable.

CONCLUSIONS OF LAW

- 1) A client must be allowed to apply for all programs administered by the Division of Family Assistance (DFA) on the day they express interest.
- 2) During the annual LIEAP open application intake period, clients may apply for LIEAP at their local DoHS office.
- 3) The preponderance of the evidence established that the Appellant expressed interest in applying for LIEAP during the open application intake period and was denied the right to apply on February 26, 2024.
- 4) The Respondent's February 26, 2024 decision to deny the Appellant's request to apply for LIEAP during the open application intake period was incorrect.
- 5) The Respondent must allow the Appellant to apply for the LIEAP benefits retroactive to the open application intake period.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's February 26, 2024 decision to deny the Appellant an application for LIEAP eligibility. The matter is **REMANDED** to provide the Appellant with a LIEAP application and determination regarding her LIEAP eligibility during the open application intake period.

Entered this 28th day of March 2024.

Tara B. Thompson, MLS
State Hearing Officer