



April 19, 2024

[REDACTED]

RE: [REDACTED] v. DoHS/BFA
ACTION NO.: 24-BOR-1960

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-1960

**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 April 18, 2024.

The matter before the Hearing Officer arises from the March 14, 2024, decision by the Respondent to deny the Appellant’s application for Emergency Assistance benefits.

At the hearing, the Respondent appeared by Laurette Mincey, Economic Services Supervisor. The Appellant was self-represented. The witnesses were placed under oath and the following documents were admitted into evidence.

Department’s Exhibits:

None

Appellant’s Exhibits:

A-1 Community Referral dated March 13, 2024, and Email from Appellant to DoHS dated March 18, 2024

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 for water on March 13, 2024.
- 2) The Respondent's caseworker verified with [REDACTED] that the Appellant's water had been disconnected on January 29, 2024.
- 3) The Respondent denied the Appellant's application on March 13, 2024, as an emergency need was not established.
- 4) The Appellant was given a referral to community resources for assistance with his water bill and reconnection fee (Exhibit A-1).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 1 explains the application process for all programs:

1.2.5 Intake Interview

The policies in this section apply to interviews that are required, as well as interviews requested by the client. WV WORKS, Emergency Low Income Heating Assistance Program (LIEAP), and Emergency Assistance require a face-to-face interview.

1.2.6 Application Submission

The Department must accept applications submitted by mail, fax, in-person, telephone, or electronically through WV PATH, the Federally Facilitated Marketplace (FFM), or the Social Security Administration (SSA).

1.2.6.A Paper Applications

The Department responds to requests for applications to be mailed to potential applicants and accepts applications submitted by mail. The following is a general description of the mail-in application process.

NOTE: The same basic process applies when the client or his representative picks up and/or drops off an application for the client, without a contact with the Worker, and when the client requests in writing that an application form be mailed to him. The following description does not indicate which form is mailed, because the form depends upon the program or Medicaid coverage group for which the client wishes to apply. The appropriate forms are shown with each program and coverage group found in the program-specific sections which follow.

1.2.6.A.1 Applications Requested by Telephone

If an individual telephones a DOHS county office to request an application be mailed to him, the Worker will inform him of the following:

- If the applicant wishes, a Worker will complete the application for him in a face-to-face interview, either in the office or in his home.

- The mail-in application procedure will result in a delay in processing his application due to a delay in receipt of the form through the mail, and depending on the program, a face-to-face or telephone interview, if required.
- If the applicant wishes, he may complete the WV PATH application process, if applicable.

West Virginia Income Maintenance Manual Chapter 20 explains eligibility for Emergency Assistance:

20.2.2.A Emergency Need Requirement

- An applicant who meets the definition of being faced with an emergency need is one who: Is faced with an existing or imminent crisis of a nature that threatens the physical health, safety, and well-being of the applicant and his family; and
- Is without available resources with which he can immediately eliminate an existing crisis or prevent an imminent crisis. When the applicant fails to meet either or both requirements indicated above, the application is denied. See Specific Items of Need in Section 20.2.4 for specific requirements.

20.2.3.A Application Forms

20.2.3.A.1 DFA-2 and DFA-EA-1

These forms are used for all EA applications.

20.2.3.B Intake Interview

The Worker must conduct the intake interview for the purpose of obtaining a thorough knowledge of the applicant's current financial situation, determining if the applicant meets the Emergency Assistance (EA) eligibility requirements, and determining the specific item(s) of need for which he is requesting payment. The time limitations must be explained to the applicant during the intake interview. The intake process ends when the Worker has gained sufficient information from which he can make a decision on the application.

20.2.4.B Utilities/Bulk Fuel

20.2.4.B.1 Services Covered

The payment of utility services included under the EA program include those services needed by the AG for heating, cooking, lighting, and sanitation. Telephone service is included only when the AG is in need of telephone service because everyone living in the home is 65 years of age or older or is disabled or temporarily incapacitated for at least the next 30 days.

20.2.4.B.2 General Requirements

Payment may be authorized for clients who are without utility services or who face imminent termination of these services. When a utility service, other than telephone service, has been disconnected, the application for EA must be made within 30 days of the date the service was terminated to meet the emergency need requirement described in Section 20.2.2.A. Supervisory approval is required to make an exception to this requirement when the AG is otherwise eligible and the service has been terminated for

more than 30 days. Exceptions may only be granted on a case-by-case basis when the extenuating circumstances warrant it. These include, but are not limited to, delayed application due to illness or disability, and other situations that are beyond the client's control.

DISCUSSION

Policy defines an emergency need as facing an existing or imminent crisis without the available resources to immediately eliminate or prevent an existing or imminent crisis. The Respondent denied the Appellant's application for Emergency Assistance for water when it determined that an emergency did not exist.

The Respondent verified with the utility provider that the Appellant's water had been disconnected on January 29, 2024. The Respondent's witness testified that because the Appellant's service had been disconnected for over thirty (30) days, an emergency no longer existed.

The Appellant testified that he emailed his caseworker on January 19, 2024, requesting an application for Emergency Assistance by mail. The Appellant contended that he did not receive a response from the caseworker and did not receive the requested application.

The Respondent stated that Emergency Assistance applications must be made in-person so the applicant can sign the payment voucher, therefore applications are never mailed to applicants. The Respondent conceded that the caseworker should have advised the Appellant that he was required to come to the office for the application.

Policy stipulates that Emergency Assistance applications require a face-to-face interview. However, policy states that the Respondent must respond to requests for applications to be mailed to potential applicants and must accept applications that are submitted by mail. If an applicant requests an application sent by mail, the Respondent must notify that applicant of potential delays that may be caused by the mail-in application process and the requirement to complete a face-to-face interview.

Credible testimony from the Appellant indicated that he contacted the Respondent for an Emergency Assistance application prior to the termination of his water service. The Respondent failed to follow policy in responding to the Appellant's request for an application by mail and for failing to advise the Appellant of the face-to-face interview requirement.

Policy states that payment may be authorized for clients who are without utility services or who face imminent termination of these services. When a utility service has been disconnected, the application for Emergency Assistance must be made within 30 days of the date the service was terminated to meet the emergency need requirement. Supervisory approval is required to make an exception to this requirement when the assistance group is otherwise eligible, and the service has been terminated for more than 30 days. Exceptions may only be granted on a case-by-case basis when the extenuating circumstances warrant it. These include, but are not limited to, delayed application due to illness or disability, and other situations that are beyond the client's control.

The Respondent's failure to respond to the Appellant's request for an application for Emergency Assistance created an extenuating circumstance that allows for the exception to the requirement of applying within 30 days of the date of service termination.

Whereas the Respondent failed to adhere to policy in responding to the Appellant's request for an application or advise him of the face-to-face interview requirement, the Respondent's decision to deny the Appellant's application for Emergency Assistance for failure to have an emergency cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Policy states that the Respondent must respond to requests for applications to be mailed to potential applicants and must accept applications that are submitted by mail. If an applicant requests an application sent by mail, the Respondent must notify that applicant of potential delays that may be caused by the mail-in application process and the requirement to complete a face-to-face interview.
- 2) The Respondent failed to respond to the Appellant's request for a mailed application or advise him of the requirement of a face-to-face interview to complete the application process.
- 3) An emergency need exists when an individual is facing an existing or imminent crisis without the available resources to immediately eliminate or prevent an imminent crisis.
- 4) Emergency Assistance payments can be made if a utility service has been terminated if the application is made within 30 days of the date of termination.
- 5) Exceptions may be granted on a case-by-case basis when the extenuating circumstances warrant the approval of Emergency Assistance when the utility service has been terminated for longer than 30 days.
- 6) The Respondent created an extenuating service when it failed to follow policy in denying the Appellant the right to apply for Emergency Assistance in its failure to provide the Appellant with the requested application by mail.

DECISION

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to deny the Appellant's application for Emergency Assistance benefits. The matter is **remanded** to the Respondent for a determination that all factors of eligibility are met.

ENTERED this 19th day of April 2024.

Kristi Logan
Certified State Hearing Officer