



April 11, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-1789

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 assure 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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Paul Patrick, BFA

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

██████████,

Appellant,

v.

Action Number: 24-BOR-1789

**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 10, 2024, on appeal filed March 25, 2024.

The matter before the Hearing Officer arises from the March 21, 2024 decision by the Respondent to deny the Appellant's application for the Low-Income Energy Assistance Program (LIEAP).

At the hearing, the Respondent appeared by Paul Patrick, Economic Service Supervisor. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary and Case Comments dated March 5, 2024 and March 20, 2024
- D-2 Zero Income/Home Heating Cost Verification Form dated March 11, 2024.
- D-3 West Virginia Income Maintenance Manual § 21.3.1.C.6
- D-4 Notice of Decision dated March 21, 2024

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) On February 27, 2024, the Appellant applied for LIEAP services for his household. (Exhibit D-1)
- 2) The Appellant is the only member of his household.
- 3) The Appellant reported no income available to his household.
- 4) On March 11, 2024, the Appellant provide a Zero Income/Home Heating Cost Verification Form indicating that he receives assistance from family and friends to pay for utility bills.
- 5) The Respondent determined that the Appellant was invulnerable to the cost of home heating.
- 6) On March 21, 2024, the Respondent issued a Notice of Decision (Exhibit D-4) to the Appellant indicating that his LIEAP application had been denied because he was not responsible for his home heating utility cost.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 21.3.C documents:

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

West Virginia Income Maintenance Manual § 21.3.C.1 documents:

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.

AGs may also be considered vulnerable if there has been a documented increase in a 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.

West Virginia Income Maintenance Manual § 21.3.1.C.2 documents:

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.

West Virginia Income Maintenance Manual § 21.3.1.C.6 documents:

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.
- Clients whose only income is a contribution for heating costs from an individual outside of the AG are considered vulnerable and are not considered zero income clients.

DISCUSSION

The Low-Income Energy Assistance Program (LIEAP) provides financial assistance to eligible assistance groups responsible for a home heating cost. The program is designed to partially offset heating cost and not meet the entire cost of home heating during the winter season.

On March 21, 2024, the Respondent determined that the Appellant was not vulnerable to the cost of home heating and subsequently denied his application for LIEAP services. The Appellant appeals the Respondent's decision. The Respondent must prove by a preponderance of the evidence that Appellant is not vulnerable to the cost of home heating cost.

On February 27, 2024, the Appellant applied for Regular LIEAP for an electric home heating cost. During the application, the Appellant reported that there was no income available to his household. At the time of the application, the Respondent requested that the Appellant complete a Zero Income/Home Heating Cost Verification Form (Exhibit D-2) to determine how the Appellant provided for the costs of his home utility responsibilities. The Appellant reported that his living expenses, including home heating and utilities, are paid for by friends and family. The Respondent determined that the Appellant was not vulnerable to the cost of home heating and denied his application. (Exhibit D-4)

The Appellant provided testimony citing that he has worked the majority of his life until his medical condition prohibited him from participating in employment. The Appellant indicated that he was honest on the verification form when he indicated that friends and family pay for his expenses. The Appellant indicated that the money he receives is a loan in which he is responsible to pay back to his friends and family members. The Appellant indicated that he is unable to work and is currently seeking a disability determination from the Social Security Administration.

To qualify for a LIEAP payment, an assistance group must be determined vulnerable or partially vulnerable to the cost of home heating. Vulnerable assistance groups are those responsible for payment of the primary heating cost for the home in which they reside. In situations where an individual reports zero income and that their home heating costs are being paid by someone else, vulnerability can be determined by the manner in which the heating cost are being paid. Governing policy mandates that zero income assistance groups in which someone else not living in the household, makes payment for the entire cost of home heating to the vendor are considered invulnerable and ineligible for LIEAP benefits. Individuals whose only income is a contribution for heating cost from an individual outside of the assistance group are considered vulnerable for the cost of home heating.

Based on the Appellant's report that the entirety of his household expenses, including his primary heating source, were paid by individuals outside of the home, the Respondent determined that the Appellant was invulnerable to the cost of home heating. Specifically, policy mandates that an assistance group is invulnerable to payment of home heating cost and ineligible for LIEAP benefits when a zero-income individual has someone else, not living in the household, make a payment for the entire cost of home heating to the vendor on behalf of the individual. The Appellant offered credible testimony that money he receives from other individuals is considered loans which he is responsible to repay. The Respondent provided no testimony that the monies received by the Appellant, from others, were paid directly to the utility vendor. It is reasonable to assume that those monies should be considered income and a contribution for heating cost; therefore, making the Appellant vulnerable to the cost of home heating.

Based on the information provided during the hearing, the Respondent failed to prove by a preponderance of the evidence that the Appellant was not vulnerable to the cost of payment for a home heating source. The Respondent's decision to deny the Appellant's application for LIEAP cannot be affirmed.

CONCLUSIONS OF LAW

- 1) To qualify for a LIEAP payment, an assistance group must be determined vulnerable or partially vulnerable to the cost of home heating.
- 2) Vulnerable assistance groups are those which must pay the primary heating cost for the home in which they reside.
- 3) Zero income assistance groups, who report that individuals outside of the assistance group make payment for the entire cost of home heating to the vendor on behalf of the applicant, are considered invulnerable to cost of home heating and ineligible for LIEAP benefits.
- 4) Individuals whose only income is a contribution for heating cost from individuals outside of the assistance group are considered vulnerable to the cost of home heating.
- 5) Testimony failed to establish that monies received from individuals outside of the Appellant's assistance group were made directly to the utility provider.
- 6) The Appellant is responsible for reimbursement to monies provided to his household for payment of household expenses.
- 7) The Appellant is vulnerable to the cost of home heating.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Respondent's decision to deny the Appellant's application for Low-Income Energy Assistance Program benefits.

ENTERED this _____ day of April 2024.

Eric L. Phillips
State Hearing Officer