



May 30, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
BOR Action No.: 24-BOR-2158

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,

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

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

cc: Marsha Hizer, BFA

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

██████████,

Appellant,

v.

Action Number: 24-BOR-2158

**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 May 23, 2024, on appeal filed May 8, 2024.

The matter before the Hearing Officer arises from the April 2024 decision of the Respondent to not accept an Emergency Low Income Energy Assistance Program application (LIEAP) from the Appellant.

At the hearing, the Respondent appeared by Hannah McComas, 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 Electronic Mail transmission dated May 8, 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) The Appellant is a one-person household.
- 2) The Emergency Low Income Energy Assistance Program (ELIEAP) was open from April 22, 2024 through April 26, 2024.
- 3) The Appellant's primary heating source is electric.
- 4) The Appellant did not have a termination notice for his heating source during the open intake period.
- 5) During the open intake period for Emergency LIEAP, the Appellant inquired with the Respondent regarding an Emergency LIEAP application.
- 6) The Appellant did not have a termination notice and the Respondent did not afford the Appellant an opportunity to apply.
- 7) The Appellant received a termination notice for his heating source on April 27, 2024.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 21.3.2:

Emergency LIEAP is the program component which assists clients in eliminating home heating crisis or emergencies. A crisis is defined as being without home heat or being in danger of not having home heat and not having the resources to resolve the crisis without financial assistance. If the crisis threatens the loss of a utility, a past due bill or termination notice is required to be submitted with the application.

If the home heating crisis is the result of a natural disaster, state and/or national public health emergency, then payments may be issued to previously approved households. Under these circumstances, a past due bill, termination notice, or face-to-face interview is not required. If there is an intake period in which an application is required, a past due bill or termination notice may be requested, but face-to-face contact may be waived. Eligibility requirements are the same as Regular LIEAP, except for the additional requirement of verifying a heating emergency.

West Virginia Income Maintenance Manual § 21.4.6:

Although it is not mandatory, the head of household should be encouraged to apply for benefits.

- Regular LIEAP applications may be mailed or delivered to the local DOHS office. Applications may also be submitted by use of WV PATH on the DOHS website. The Worker may request additional information if needed for eligibility determination, but incomplete applications must be denied.

Emergency LIEAP applications require a face-to-face interview at a DOHS office but may be taken in the home for clients who meet certain requirements. (If the home heating crisis is the result of a natural disaster, state and/or national public health emergency, then payments may be issued to previously approved households. Under these circumstances, a past due bill, termination notice, or face-to-face interview is not required.)

- o Home visits are limited to those persons age 60 and over or disabled persons of any age who live alone and have no means of transportation to the local DOHS office in order to apply for Emergency LIEAP.

- o The Community Services Managers (CSM) can permit outreach workers from a senior citizen center or Community Action Agency to take the application and/or DFA-67 forms to the client for completion and to obtain the necessary documentation to verify the emergency.

- If the CSM permits employees from other agencies to take applications in the home, the employees must be trained to assist the homebound client to complete the application form, obtain the required verification and otherwise perform the necessary tasks required for DOHS to make a decision on the application.

- o The DOHS will make the final decision regarding eligibility for and the amount of Emergency LIEAP benefits. Personnel from other agencies are not permitted to make this decision or inform the client about his eligibility.

West Virginia Income Maintenance Manual 1.2.1A documents in pertinent part:

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 afforded the opportunity to apply for all Programs on the date he expresses his interest. Certain programs, such as Children with Disabilities Community Service Program (CDCSP), Intellectual and Developmental Disabilities (I/DD) Waiver, Aged and Disabled Waiver (ADW) and Traumatic Brain Injury (TBI) Waiver, require a medical and/or other determination by a community agency or government division other than the DFA and a financial determination by an Income Maintenance Worker. When an applicant's medical eligibility for, or enrollment in, such programs is pending, he must not be refused the right to apply, but must be evaluated for any or all Department programs. When it is not feasible for the applicant to be interviewed, if an interview is required or

requested, on the date he expresses his interest, he must be allowed to complete the process at a later date. An appointment may be scheduled for his return, or the client may return at his convenience, depending upon the procedure established by the Community Services Manager (CSM). The same procedure must be used for all applicants within the county. If a follow-up appointment is scheduled and the applicant appears for the interview at the scheduled time, he must be seen on that day and not be required to return again to complete the application process.

DISCUSSION

Emergency LIEAP is the program component which assists clients in eliminating home heating crisis or emergencies. Governing policy defines a crisis as being without home heat or being in danger of not having home heat and not having the resources to resolve the crisis without financial assistance. Emergency LIEAP applications require that a face-to-face interview and a past due bill, or termination notice, be submitted with the application when the crisis threatens the loss of a utility.

The open intake period for Emergency LIEAP was April 22, 2024 through April 26, 2024. On May 8, 2024, the Appellant requested a fair hearing with the Respondent (Exhibit D-1) indicating in part, "I would like to have a hearing about how I have been turned down on lehiep [sic] due to my termination notice not making it in the mail in time to be accepted." The Respondent contends that the Appellant did not apply for services; therefore, his application could not be processed or denied. Hannah McComas, Economic Services Supervisor, testified that applications for the program were required to be submitted, process pending, by the close of business of April 26, 2024 to be considered for the program.

The Appellant contends that he communicated with Constituent Services and the local office concerning his desire to submit an Emergency LIEAP application. The Appellant testified that on multiple occasions he was informed that he could not apply for Emergency LIEAP until he was in possession of a termination notice from his utility company. The Appellant purported that he visited the Respondent's local office during the open intake period of Emergency LIEAP and was informed that he could not apply until he received a termination notice for the utility disconnection. The Appellant indicated that he received a termination notice of April 27, 2024, but did not submit a program application because the application intake period had expired. The Appellant indicated that he explored other available resources to assist with payment of his termination notice and his home heating emergency has since been eliminated.

Policy is clear that no individual should be denied the right to apply for a service or program administered by the Bureau of Family Assistance. Every individual must be afforded the opportunity to apply on the date that the individual expresses interest. Testimony revealed that the Appellant expressed a desire to apply for Emergency LIEAP assistance with the local office during the intake period; however, he was denied the right to apply because he was not in possession of a termination notice. While the Appellant was not in possession of a utility termination at the time he expressed interest in apply for the program, the Respondent had the responsibility to process

his application and either approve, deny, or pend the application with the information provided. Therefore, the actions demonstrated by the Respondent cannot be affirmed. Because testimony revealed that additional resources were secured to assist in the elimination of the utility termination notice, the Appellant's utility crisis is moot; therefore, no additional relief is available to the Appellant from the Board of Review.

CONCLUSIONS OF LAW

- 1) An application for Emergency LIEAP requires a face-to-face interview and a past due bill or termination notice of a utility.
- 2) Every person must be afforded the opportunity to apply for all Programs administered by the Bureau of Family Assistance on the date he expresses his interest.
- 3) The open intake period for Emergency LIEAP was April 22, 2024 through April 26, 2024.
- 4) The Appellant expressed a desire with the Respondent to apply for services under Emergency LIEAP during the open intake period.
- 5) The Respondent denied the Appellant's right to apply for a service administered by the Bureau of Family Assistance.
- 6) The Appellant eliminated his utility emergency on his own accord, there is no additional relief available through the Board of Review.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the action of the Respondent to deny the Appellant his right to apply for services under Emergency LIEAP.

ENTERED this ____ day of May 2024.

Eric L. Phillips
State Hearing Officer