



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin
Governor

BOARD OF REVIEW
416 Adams St.
Fairmont, WV 26554

Karen L. Bowling
Cabinet Secretary

February 23, 2016



RE: [REDACTED] v. CCRC/WVDHHR
ACTION NO.: 16-BOR-1041

Dear Ms. [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 Human Resources. 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,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Kelly Coen/Melissa Harvey, Child Care Resource Center

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW**

████████████████████,

Appellant,

v.

Action Number: 16-BOR-1041

**CHILD CARE RESOURCE CENTER
/WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

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 West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on February 17, 2016, on an appeal filed January 6, 2016.

The matter before the Hearing Officer arises from the September 22, 2015 decision by the Respondent to terminate Appellant's subsidized Child Care benefits.

At the hearing, the Respondent appeared by Melissa Harvey, Director, Child Care Resource Center (CCRC). Appearing as a witness for Respondent was Kelly Coen, Supervisor, CCRC. The Appellant appeared pro se.

Respondent's Exhibits:

- #1 Child Care Parent Services Agreement – signed 8/7/15
- #2 WVDHHR New Employment Verification
- #3 Child Care Parent Notification Letter notice of Denial or Closure dated 9/22/15
- #4 WV Child Care Subsidy Policy §5.2.1
- #5 Correspondence from ██████████, Developmental Advising Specialist, ██████████, dated 10/6/15
- #6 Appellant's written pre-hearing request dated 12/17/15
- #7 Written summary, dated 1/5/15 (should be 1/5/16), of pre-hearing results held via telephone conference call on 12/21/15.
- #8 Appellant's written request for a hearing filed on 1/6/16
- #9 E-mail correspondence from ██████████ dated 10/2/15

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) Appellant was an active recipient of subsidized Child Care benefits stemming from an application completed on August 17, 2015 (Exhibit 1). Appellant also submitted a New Employment Verification Form on August 19, 2015 (Exhibit 2), advising that she would be working as a tutor beginning on August 24, 2015, at [REDACTED]. The New Employment Verification Form advised the Appellant that – “This form is to verify new employment situation in which the applicant has not yet received pay and is unable to provide pay stubs as proof of employment. Once the applicant has received one month’s worth of pay stubs, copies must be given to the agency.”
- 2) On or about September 22, 2015, Appellant was notified (Exhibit 3) to submit her initial 30-days’ worth of pay stubs from [REDACTED] by October 5, 2015, or her case would be closed on that date.
- 3) E-mail correspondence from [REDACTED] – dated October 2, 2015 – confirms the Appellant was aware of Respondent’s verification requirement and that she was making efforts to secure the requested information.
- 4) On October 7, 2015, Respondent received correspondence (Exhibit 5) from [REDACTED] [REDACTED] (dated October 6, 2015) verifying Appellant had not worked as a tutor at the [REDACTED] as of this date.
- 5) Testimony proffered by Respondent’s representatives indicates that Appellant’s subsidized Child Care benefits were terminated effective October 5, 2015, when the deadline expired and verification had not been received. Appellant contended that she spoke to someone at the CCRC and she believed that she was afforded an extension to submit the requested employment verification. It should be noted, however, that there is no evidence to corroborate Appellant’s claim.
- 6) As a matter of record, Appellant reapplied for Child Care benefits and eligibility was reestablished effective January 4, 2016. The period for which Appellant is seeking payment of subsidized Child Care benefits is October 6, 2015 through January 4, 2016

APPLICABLE POLICY

Child Care Subsidy Policy & Procedures Manual §5.2.1.2 provides that employment income must be verified by the client by submitting of the following:

- A. One month’s worth of check stubs, or
- B. The New Employment Verification Form (ECE-CC-1B) in the case of new employment situation in which the applicant has not yet received pay.

- 1.) Clients using the ECE-CC-1B to verify employment must submit one month's worth of check stubs to the agency as soon as they are received.
- 2.) Failure to supply follow up check stubs will result in case closure.

DISCUSSION

Pursuant to Child Care policy requirements, the New Employment Verification Form is used when a subsidized Child Care applicant has secured new employment, but has not yet received employment earnings. The Appellant was advised when she completed this form - during her application on August 17, 2015 - that she would be required to verify her income after being employed for one month. While it was noted that the notice letter was erroneously dated October 5, 2015, Respondent notified the Appellant on or about September 22, 2015, that she was required to provide income verification of her initial 30 days of employment at [REDACTED] by October 5, 2015, or her case would be closed.

The evidence demonstrates that the Appellant knew she needed to provide employment verification information, as confirmed by her testimony and the E-mail correspondence dated October 2, 2015, but contended she was told by a CCRC representative that she would be afforded an extension. Respondent's representatives, however, have no record of the Appellant contacting its office prior to the October 5, 2015 deadline, and the Appellant acknowledged that she did not follow-up with the CCRC to confirm that the information she provided satisfied Respondent's request.

Whereas the requested information was clearly received after the deadline had expired, Respondent was correct to terminate Appellant's subsidized Child Care benefits.

CONCLUSIONS OF LAW

Pursuant to Child Care policy, Respondent was correct in its decision to terminate Appellant's subsidized Child Care benefits when Appellant failed to provide new employment verification, as requested on the New Employment Verification Form and the September 22, 2015 verification request.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Respondent's decision to terminate Appellant's subsidized Child Care benefits effective October 5, 2015.

ENTERED this ____ Day of February 2016.

**Thomas E. Arnett
State Hearing Officer**