



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

April 5, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-1382

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: [REDACTED]

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

██████████,

**Appellant,**

v.

**Action Number: 16-BOR-1382**

**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 March 31, 2016, on an appeal filed February 25, 2016.

The matter before the Hearing Officer arises from the January 26, 2016 decision by the Respondent to terminate the Appellant's Child Care services.

At the hearing, the Respondent Appeared by ██████████, supervisor with ██████████, ██████████. Appearing as a witness for the Respondent was ██████████, Quality Control Reviewer with ██████████. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's mother and Child Care provider. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Child Care Parent Notification Letter Notice of Denial or Closure dated January 26, 2016
- D-2 Hearing Request received February 25, 2016
- D-3 Hearing Request Notification
- D-4 Child Care Subsidy Policy §3.5

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 was a recipient of Child Care services.
- 2) The Department notified (D-1) the Appellant on January 26, 2016, that her Child Care case had been audited and it was found that she did not meet the minimum wage requirement to continue receiving Child Care services.
- 3) The Appellant was given thirty (30) days to verify that she was earning minimum wage from her employment.
- 4) The Appellant's Child Care services were terminated February 29, 2016.
- 5) The Appellant is employed with [REDACTED] in [REDACTED] earning \$7.25 an hour.
- 6) Minimum wage for West Virginia is \$8.75 an hour.

### **APPLICABLE POLICY**

Child Care Subsidy Policy §3.5.1 states that any recipient of child care assistance who is an employee in the private sector must be paid at least State minimum wage for all hours of work performed. If the recipient is not making at least the applicable state minimum wage for all work performed, the recipient will not be eligible for child care services, unless the employee is self-employed or receives gratuities that achieve the State minimum wage.

### **DISCUSSION**

The Appellant did not contest that she was not meeting the minimum wage requirement as specified in policy. The Appellant argued that she had been with her current employer for four (4) years and did not wish to change jobs.

### **CONCLUSIONS OF LAW**

- 1) Policy stipulates that in order to qualify for Child Care benefits, a recipient must be employed and earning West Virginia's minimum wage of \$8.75 an hour.
- 2) The Appellant, who is employed in [REDACTED] earns \$7.25 an hour.
- 3) The Department was correct to terminate the Appellant's Child Care services due to her inability to meet the minimum wage requirement as found in policy.

**DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to terminate the Appellant's Child Care services.

**ENTERED this 5<sup>th</sup> day of April 2016**

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**Kristi Logan  
State Hearing Officer**