



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

June 30, 2016

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-1693

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Lela Pemberton, Department Representative

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1693

**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 May 17, 2016, on an appeal filed April 12, 2016.

The matter before the Hearing Officer arises from the February 17, 2016 decision by the Respondent to deny the Appellant's application for child care services. This decision was subsequent to a separate action by the Respondent to terminate the Appellant's child care services. The initial action was only discovered at hearing, but both matters were considered in this decision.

At the hearing, the Respondent appeared by Lela Pemberton and Lori Wallace. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Child Care Parent Notification of Redetermination, dated December 23, 2015
- D-2 Child Care Provider Notification (1st Action), dated January 15, 2016
- D-3 Child Care Parent Notification (1st Action), dated February 1, 2016
- D-4 Child Care application/review documents, dated February 2, 2016
- D-5 Notification of new applicants, dated February 2, 2016
- D-6 Income verification for the Appellant

- D-7 Child Care Subsidy Policy, §3.6.1
D-8 Child Care Parent Notification (2nd Action), dated February 17, 2016

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 from the Respondent.
- 2) The Respondent notified the Appellant of an upcoming redetermination of eligibility for those services (Exhibit D-1).
- 3) The Appellant did not complete the required redetermination of eligibility for child care services.
- 4) The Respondent notified the Appellant (Exhibit D-3) and her provider (Exhibit D-2) that her child care services were terminated.
- 5) The Appellant subsequently reapplied for child care services (Exhibit D-4) and was notified of income and employment verification to complete her new application (Exhibit D-5).
- 6) The Appellant did not work at least 20 hours per week during the period of time considered for her child care application (Exhibit D-6).
- 7) The Respondent denied the Appellant's application based on insufficient work hours (Exhibit D-8).

APPLICABLE POLICY

Child Care Policy requires recipients to periodically complete a status check to redetermine their eligibility for services (Child Care Subsidy Policy, §6.1.1), and requires the termination of child care services when a recipient fails to return this status check by an established deadline (Child Care Subsidy Policy, §6.1.2.2).

Child Care Policy requires recipients employed in the private sector to work at least 20 hours per week to be eligible for services (Child Care Subsidy Policy, §3.6.1).

Child Care Policy requires employment verification in the form of "check stubs, no older than 45 days," (Child Care Subsidy Policy, §4.1.1.1) with the sole exception in the instance of new employment (Child Care Subsidy Policy, §4.1.1.2).

DISCUSSION

The Respondent took two actions with regard to the Appellant's child care services – the termination of the Appellant's services based on an incomplete review of eligibility, and the denial of the Appellant's subsequent reapplication for those services.

The Appellant was mailed a review form – referred to as a status check – and the Appellant failed to complete and return the form. This review of eligibility is required by policy, and the Respondent was correct to terminate services on this basis.

The Appellant reapplied for child care services, and the Respondent notified her of verifications necessary to complete her application. Child Care policy requires a minimum number of work hours to establish an applicant's need for services, and the Appellant failed to meet the minimum set by policy. The Appellant contended she should have been given alternative verification options to show her hours over a longer period of time, but the Respondent's policy limits this verification to check stubs within a 45-day time frame. The Respondent was correct to deny the Appellant's application for child care services on this basis.

CONCLUSIONS OF LAW

- 1) Because the Appellant failed to complete and return a review form required to determine ongoing eligibility for child care services, the Respondent must terminate those services.
- 2) Because the Appellant failed to establish the minimum number of work hours required by policy, the Respondent was correct to deny the Appellant's subsequent application for child care services.

DECISION

It is the decision of the State Hearing Officer to **uphold** the actions of the Respondent to terminate the Appellant's child care services and deny the Appellant's subsequent application for those services.

ENTERED this ____ Day of June 2016.

**Todd Thornton
State Hearing Officer**