



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

June 10, 2016

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NOS.: 16-BOR-1738 and 16-BOR-1739

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

Cc [REDACTED], [REDACTED]

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

██████████,

**Appellant,**

v.

**Action Numbers: 16-BOR-1738  
16-BOR-1739**

**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 25, 2016, on an appeal filed April 19, 2016.

The matter before the Hearing Officer arises from the April 13, 2016 decision by the Respondent to terminate the Appellant's Child Care benefits effective April 30, 2016.

At the hearing, the Respondent appeared by ██████████, Assistant Program Director, ██████████. The Appellant appeared pro se. Appearing as a witness for the Appellant was ██████████, Child Protective Service Worker, WVDHHR. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 West Virginia Child Care Subsidy Policy & Procedures Manual Section 4.3.1.1
- D-2 Child Care benefit closure notices dated April 13, 2016

**Appellant's Exhibits:**

- A-1 Appellant's income verification

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 benefits for her two foster children when the Department sent her a notice on April 13, 2016, indicating that she must submit a copy of her 2015 Federal Income Tax Form to [REDACTED] by April 30, 2016.
- 2) [REDACTED], Assistant Program Director for [REDACTED], testified that the Appellant, who is self-employed, failed to provide her 2015 tax form by April 30, 2016; therefore, the Department proposed closure of her Child Care benefits (see Exhibit D-2).
- 3) The Appellant provided financial documentation – including her 2014 Federal Income Tax Form and her weekly income/average hours worked for the first four months of 2016 - to [REDACTED] (A-1) in March 2016. However, she testified that she did not possess her 2015 Federal Income Tax Form by April 30, 2016, because she was granted a filing deadline extension by the Internal Revenue Service (IRS). She contended that the Department should not penalize her for failing to provide the form because federal law allowed her a filing deadline extension.

## APPLICABLE POLICY

West Virginia Child Care Subsidy Policy & Procedures Manual Section 4.3.1.1 (D-1) states that self-employed individuals must provide a complete copy of their current tax return by April 30 of each year. Under no circumstances will an extension for submission of tax returns be granted, even if the client has been granted an extension to file by the IRS. Clients granted an extension to file by the IRS will be closed for failure to submit tax returns by the April 30<sup>th</sup> deadline.

West Virginia Child Care Subsidy Policy & Procedures Manual Section 3.2.6 states that Child Care services are available for a foster home that needs child care because the foster parents are participating in education or employment.

3.2.6.1. In FACTS, each foster child or sibling group is a separate family within the household and financial eligibility is based on the foster child's income. Child income, such as child support, shall be entered in FACTS with any fees for service waived. Boarding care payments are not considered income for a child.

3.2.6.2. The CCR&R worker shall designate one of the foster parents as head of household, but exclude foster family income in determining eligibility. Foster parents must verify employment or attendance in an education or job training program.

3.2.6.3. Foster care parents cannot receive child care subsidy payments or place the child in any child care center, family child care facility, or family child care home of any type in which they own all or part of the care facility.

## DISCUSSION

Child Care Policy states that Child Care services are available for foster children in the state's custody when the foster parents are participating in education or employment. However, the income of foster parents is excluded when determining a child's eligibility for Child Care services. Policy states that foster parents must only verify employment or attendance in an education program.

The Appellant provided verification of employment to [REDACTED] in March 2016. While policy states that self-employed individuals must provide a Federal Income Tax Form by April 30 of each year, it only states that foster parents must verify *employment* and their income is excluded when determining a foster child's eligibility. The Appellant provided information to [REDACTED] in March 2016 concerning her weekly earnings and average weekly hours worked. As she is only required to verify employment, the Department's proposal to terminate her Child Care benefits for lack of an income tax return cannot be affirmed.

## CONCLUSIONS OF LAW

The Department's proposal to terminate the Appellant's Child Care benefits based on failure to provide an income tax form cannot be affirmed.

## DECISION

It is the decision of the State Hearing Officer to REVERSE the Department's action to terminate the Appellant's Child Care benefits.

**ENTERED this 10<sup>th</sup> Day of June 2016.**

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**Pamela L. Hinzman  
State Hearing Officer**