



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

July 20, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2134

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], [REDACTED]

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2134

**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 July 19, 2016, on an appeal filed June 14, 2016.

The matter before the Hearing Officer arises from the March 24, 2016 decision by the Respondent to terminate the Appellant's Child Care services.

At the hearing, the Respondent appeared by ██████████, ██████████. ██████████. Appearing as a witness for the Respondent was ██████████, ██████████. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 New Employment Verification Form (ECE-CC-1B) dated February 25, 2016
- D-2 Child Care Subsidy Policy Manual §4.1.1
- D-3 Child Care Parent Notification Letter Notice of Denial or Closure (DAY-0179) dated March 24, 2016
- D-4 Child Care Subsidy Policy Manual §14.3.7
- D-5 Provider Notification Letter – Parent's Eligibility for Child Care (DAY-0613) dated March 24, 2016
- D-6 Child Care Parent Notification Letter Notice of Denial or Closure (DAY-0179) dated April 7, 2016
- D-7 Client Contact Report dated April 11, 2016

D-8 Child Care Parent Notification Letter Notice of Denial or Closure dated March 24, 2016
and Returned-Mail Envelope
D-9 Status Review Form (ECE-CC-1E) signed February 26, 2016

Appellant's Exhibits:

A-1 Correspondence from [REDACTED] dated July
19, 2016
A-2 Invoice from [REDACTED] for January 2016-
April 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 benefits.
- 2) The Appellant's Child Care benefits were reviewed in February 2016. A New Employment Verification Form (D-1) was submitted with her Status Check review form (D-9).
- 3) The Department issued (D-3) a Child Care Parent Notification Letter Notice of Denial or Closure to the Appellant on March 24, 2016, advising that a month's worth of paystubs from her new employment were required to be submitted by April 6, 2016, or her Child Care benefits would be terminated.
- 4) The Department issued (D-5) a Provider Notification Letter – Parent's Eligibility for Child Care to the Appellant's provider on March 24, 2016, advising that the Appellant would no longer be eligible for Child Care assistance after April 6, 2016.
- 5) The Department issued (D-6) a Child Care Parent Notification Letter Notice of Denial or Closure to the Appellant on April 7, 2016, advising that the Appellant's Child Care benefits were terminated effective April 6, 2016, when the requested verification had not been received.
- 6) The Appellant contacted (D-7) the Department on April 11, 2016, after receiving the notice of termination. When advised of the reason for case closure, the Appellant reported that she had not received the verification request letter.
- 7) The March 24, 2016, Child Care Parent Notification Letter Notice of Denial or Closure (D-8) was returned to the [REDACTED] office as "undeliverable" on April 25, 2016.

8) The Appellant's mailing address of record is [REDACTED]

APPLICABLE POLICY

Child Care Subsidy Policy Manual § 4.1.1.2 states that the New Employment Verification Form (ECE-CC-1B) is used to verify income in the case of new employment situations in which the applicant has not yet received pay: 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. Failure to supply follow up check stubs will result in case closure.

West Virginia Common Chapters Manual §710.14(A) states that adequate notice of a Departmental decision affecting benefits, or EBT adjustments, shall be mailed via first class mail, or provided in writing in a face-to-face contact, to the applicant or recipient and must include the following information: The action or proposed action to be taken; and the reason(s) for the action provided in terms readily understandable by the applicant or recipient and specifying all applicable policy manual sections.

DISCUSSION

Per policy, a Child Care recipient that obtains new employment must verify his/her earned income by 30 days' worth of paystubs in addition to the New Employment Verification Form.

The Appellant submitted the New Employment Verification Form with her Status Check form in February 2016 for her employment with [REDACTED], indicating a hire date of February 19, 2016.

The Department requested that the Appellant submit paystubs from [REDACTED] in a letter mailed March 24, 2016, to [REDACTED]. The Appellant did not receive this verification request as it was postal-returned to the Department after case closure. It should be noted that the Appellant continues to receive mail at the aforementioned address.

The Appellant did not receive adequate notice of the proposed termination of her Child Care benefits or the verification needed to evaluate her continued eligibility for the program. Therefore, the Department erred in the termination of the Appellant's Child Care benefits.

CONCLUSIONS OF LAW

1) Adequate and timely notice of a case closure must be given to all recipients citing the reason for the proposed action.

- 2) The Appellant was not given adequate and timely notice of the information needed to continue receiving Child Care benefits as evidenced by the postal-returned verification request letter.
- 3) The Department's decision to terminate the Appellant's Child Care benefits without proper notice was incorrect.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Department's decision to terminate the Appellant's Child Care benefits and **remand** the matter back to the Department to allow the Appellant to submit the requested information to evaluate her continued eligibility for the program.

ENTERED this 20th day of July 2016

**Kristi Logan
State Hearing Officer**