



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

November 30, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2674

Dear [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-2674

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on October 6, 2016, on an appeal filed September 19, 2016.

The matter before the Hearing Officer arises from the August 23, 2016 decision by the Respondent to deny the Appellant's application for child care services.

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

Department's Exhibits:

- D-1 Application for Child Care Services, dated August 4, 2016
- D-2 Notification of New Applicants, dated August 4, 2016
- D-3 Two (2) pay stubs from the Appellant's employer
- D-4 Email correspondence between the Appellant and Pam Jones
- D-5 One (1) pay stub from the Appellant's employer
- D-6 Child Care Parent Notification Letter – Notice of Denial or Closure, dated August 23, 2016
- D-7 Child Care Subsidy Policy, Chapter 4 (excerpt)

Appellant's Exhibits:

- A-1 Undated letter from Appellant's employer
- A-2 New Employment Verification form
- A-3 Notification of New Applicants, dated August 4, 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 submitted an application for child care services to the Respondent on August 4, 2016. (Exhibit D-1)
- 2) The Respondent notified the Appellant that additional information was needed to determine her eligibility for child care services. (Exhibit D-2)
- 3) The information requested to determine eligibility was a "NEVF (New Employment Verification Form) completed by employer." (Exhibit D-2)
- 4) The Respondent advised the Appellant that "the application will be denied if this information is not received by August 17, 2016." (Exhibit D-2)
- 5) The Appellant did not provide the requested information by the deadline.
- 6) On August 23, 2016, the Respondent notified the Appellant (Exhibit D-6) that her application for child care was denied for failure to provide "one more pay stub or New Employment Form".

APPLICABLE POLICY

Child Care Policy requires applicants to demonstrate a need for care. (Child Care Subsidy Policy, §4.0)

Child Care Policy requires applicants whose need for care is based on employment to verify that employment. (Child Care Subsidy Policy, §4.1.1)

Child Care Policy allows this verification in the form of "one month's worth of check stubs, no older than 45 days," (Child Care Subsidy Policy, §4.1.1.1) or with a "New Employment Verification Form (ECE-CC-1B) in the case of new employment situations in which the

applicant has not yet received pay,” followed up by “one month’s worth of check stubs to the agency as soon as they are received.” (Child Care Subsidy Policy, §4.1.1.2)

DISCUSSION

The Respondent denied the Appellant’s application for child care services based on her failure to verify employment. The Respondent must show, by a preponderance of the evidence, that this eligibility requirement was not met by the Appellant.

The evidence and testimony in this case clearly shows the Respondent met the burden necessary to affirm its decision. The Respondent requested the Appellant verify her employment using a form to be completed by the employer. The Appellant contended this information was completed and faxed to the Respondent, but provided no evidence to support this. The worker for the Respondent assigned to process the Appellant’s application reviewed a log of incoming faxes and found nothing faxed from the Appellant’s employer. The Respondent indicated they were willing to accept four weekly pay stubs in lieu of the form, but the Appellant only provided three – one before the deadline (Exhibit D-3), and one with an extended deadline (Exhibit D-5).

The Respondent acted correctly to deny the Appellant’s application for child care services based on the Appellant’s failure to verify information required by policy.

CONCLUSION OF LAW

Because the Appellant did not verify the necessary information to determine child care eligibility, the Respondent must deny her application for child care services.

DECISION

It is the decision of the State Hearing Officer to **uphold** the action of the Respondent to deny the Appellant’s application for child care services.

ENTERED this ____ Day of November 2016.

Todd Thornton
State Hearing Officer