



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, West Virginia
25313
(304) 746-2360

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

October 21, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2762

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,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

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

cc: Scott Dettra, Connect Child Care Resource and Referral

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

████████████████████,

Action Number: 16-BOR-2762

Appellant,

v.

**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 October 20, 2016, on an appeal filed September 26, 2016.

The matter before the Hearing Officer arises from the September 26, 2016 decision by the
Respondent to deny Appellant's application for Child Care Services.

At the hearing, the Respondent appeared by Scott Dettra, Connect Child Care Resource and
Referral. The Appellant appeared *pro se*. All witnesses were sworn and the following documents
were admitted into evidence.

Department's Exhibits:

- D-1 Child Care Subsidy Policy §1.2.13
- D-2 Child Care Subsidy Policy §4.3.7.1
- D-3 Paystubs for ██████████, dated September 2, 2016 and September 16, 2016
- D-4 Child Care Subsidy Policy §5.3.1.2
- D-5 Income Calculator Form
- D-6 Child Care Subsidy Policy §5.0
- D-7 Child Care Subsidy Policy Appendix A

Appellant's Exhibits:

None

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 completed an application for Child Care Services on September 26, 2016.
- 2) The Appellant, his spouse and their child are considered a three-person family.
- 3) At the time of application the Appellant did not have earned income and was considered self-employed.
- 4) The Appellant's spouse's gross monthly income was \$2,514.43. (D-5)
- 5) The income limit for initial applicants for Child Care Services is based on 150% of the Federal Poverty Level (FPL), and the maximum allowable gross monthly income for a three-person family is \$2,474.00. (D-7)
- 6) Once approved for Child Care Services, the income limit for participants is based on 185% of the FPL, and the maximum allowable gross monthly income for a three-person family is \$3,051.00. (D-7)

APPLICABLE POLICY

Child Care Services policy §1.2.13 defines a family as one or more adults and children, if any, related by blood or law, and residing in the same household. Where adults other than spouses reside together, each shall be considered a separate family. Emancipated minors and children living under the care of individuals not legally responsible for their care shall be considered as separate families.

Child Care Services policy §4.3.7.1 indicates parents who are just beginning self-employment, or whose self-employment endeavor is less than 12 months old, may be granted child care for 3 months to establish their business and obtain the necessary licenses and registrations. If the parent has an estimate of what their monthly income and expenses will be, the estimate can be entered into the Families and Children Tracking System (FACTS), otherwise, the case worker should enter \$1.00 for the income.

Child Care Services policy §5.3.1 states FACTS automatically converts income received on a regular basis, but more frequently than once a month, to a monthly amount by:

- 5.3.1.1. Multiplying average weekly amounts by 4.3,
- 5.3.1.2. Multiplying average bi-weekly amounts by 2.15, or
- 5.3.1.3. Multiplying average amounts received or paid twice monthly by 2.

Child Care Services policy Appendix A states the intake cap limit for a three-person family is \$2,474.

DISCUSSION

On September 26, 2016, the Appellant completed an application for Child Care Services. The Appellant's application was denied because the household's gross monthly income of \$2,514.43 exceeded the intake limitation of \$2,474.00 for a family of three (3). The Appellant contested the Department's decision.

Child Care Services policy states the income limit for initial applicants for Child Care Services is based on 150% of the Federal Poverty Level (FPL), and the maximum allowable gross monthly income for a three-person family is \$2,474.00. Once approved for Child Care Services, the gross monthly income limit for a three-person family increases to \$3,051.00, which is 185% of the FPL.

During the hearing, the Appellant stated he did not agree with the way Child Care Services policy determined gross monthly income limits for new applicants and current participants of Child Care Services. The Appellant felt the income limit for new applicants should have been based on 185% of the FPL. He testified that if the income limit had been based on 185% FPL instead of 150% FPL, his family would have qualified for Child Care Services. The Department's representative, Scott Dettra, stated the reason Child Care Services policy allowed a higher gross monthly income limit for established participants of Child Care Services is so that families are not penalized if they received a raise or find better employment.

Based on testimony and evidence submitted, the Department acted correctly in determining the Appellant's gross monthly income for a three-person household and the Appellant's eligibility for Child Care Services.

CONCLUSION OF LAW

Policy limits the monthly gross income for applicants of Child Care Services. Income for a household of three (3) cannot exceed \$2,474.00. The Appellant's household gross monthly income of \$2,514.43 at the time of the September 26, 2016 application is in excess of the established policy limits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny the Appellant's application for Child Care Services.

ENTERED this 21st Day of October 2016.

**Natasha Jemerison
State Hearing Officer**