



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, West Virginia
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Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

December 1, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2924

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-2924

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 December 1, 2016, on an appeal filed October 24, 2016.

The matter before the Hearing Officer arises from the August 26, 2016 decision by the Respondent to terminate the Appellant's 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 Provider Notice to Agency and Invoice from ██████████ ██████████, dated August 8, 2016
- D-2 Child Care Subsidy Policy §§ 6.4.5.2 and 6.4.5.6
- D-3 Child Care Parent Closure Notice, dated August 12, 2016
- D-4 Provider Notification Letter, dated August 12, 2016
- D-5 Child Care Parent Closure Notice, dated August 26, 2016

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 was a recipient of Child Care services.
- 2) On August 8, 2016, [REDACTED] notified the Department that it no longer provided Child Care services to the Appellant, and the Appellant owed an outstanding balance of \$118.75 for Child Care services. (D-1)
- 3) On August 12, 2016, the Appellant was notified, via Child Care Parent Closure Notice (DAY-0179), that her Child Care services would be closed if she did not pay \$118.75 to [REDACTED] and provide a copy of the receipt to Connect Child Care Resource and Referral by August 25, 2016. (D-3)
- 4) A Provider Notification Letter was mailed to the Appellant's new Child Care services provider, [REDACTED], on August 12, 2016, which advised the provider that the Appellant would be ineligible for Child Care services effective August 25, 2016. (D-4)
- 5) On August 26, 2016, the Appellant was notified that her case was closed effective August 25, 2016, because she did not provide verification of payment to [REDACTED]. (D-5)
- 6) Outstanding fees owed to Child Care providers must be paid and verification of payment must be provided to Connect Child Care Resource and Referral within 13 days of the Child Care Parent Closure Notice. (D-2)
- 7) Connect Child Care Resource and Referral received verification of the outstanding \$118.75 payment to [REDACTED] sometime in October 2016.

APPLICABLE POLICY

Child Care Policy §6.4.5 explains how overdue fees are collected. Connect Child Care Resource and Referral (CCR&R) staff can only assist child care providers in collecting the parent's portion of the daily fee. If a parent does not pay the required daily fee and the provider decides to pursue collection, the following process must be followed:

6.4.5.1 Parent fees should be paid at least monthly. The provider must notify the CCR&R worker in writing no earlier than five and no later than 30 days after the date payment was due.

6.4.5.2 The worker shall then send notices to the parent via the Child Care Parent Closure Notice (DAY-0179) and to the provider via the Provider Notification- Parent Eligibility (DAY-0613) that Child Care Services will be terminated 13 days from the date of the closure letter.

6.4.5.3 The parent has the right to make the fee payment within the 13-day period or to request a pre-hearing conference or hearing.

6.4.5.4 If the parent pays the fee, the provider must notify the CCR&R worker in writing and care will be continued. In addition to notification from the provider, the parent must supply the CCR&R with a receipt verifying payment of the overdue fee within the 13-day period or the case will be closed. The CCR&R worker must confirm the veracity of the receipt with the child care provider. Confirmation with the provider and continuation of services should be noted in case contacts. If the provider disputes the veracity of the receipt, the child care case will be closed.

6.4.5.5 If the parent requests a hearing within 13 days, services will be continued until the issue is resolved.

6.4.5.6 If the parent neither pays the fee nor requests a hearing, the case will be closed at the end of the 13-day period.

DISCUSSION

On August 25, 2016, the Appellant's Child Care services were terminated because she did not provide verification of payment of \$118.75 in fees owed to former Child Care provider [REDACTED]. The Appellant requested a fair hearing because she stated she paid the amount and also faxed a copy of the receipt to Connect Child Care Resource and Referral (CCR&R) before the closure date.

Child Care policy indicates that when outstanding fees are owed to a Child Care provider, a Child Care Parent Closure Notice must be issue to the parent and current provider informing them the balance must be paid and verification of payment has be provided to CCR&R within 13 days of the notice or Child Care services will be terminated.

During the hearing, the Appellant stated she paid \$118.75 to [REDACTED]. She stated she went to the CCR&R office to provide a copy of the receipt on August 23, 2016, but the office was closed for training. The Appellant testified that she faxed a copy of the receipt to CCR&R on August 23, 2016. She stated she did not receive confirmation that the fax went through because the fax machine was very old. She also stated she did not receive the closure notice from CCR&R and did not know she no longer received Child Care services until her current provider, [REDACTED], notified her that CCR&R did not pay for services for September 2016. She stated she then decided to email a copy of the receipt to CCR&R. The Department's representative, Scott Dettra, was unable to confirm or deny if the CCR&R office was closed on August 23, 2016. He stated he checked the mail log, but nothing was received from the Appellant. Mr. Dettra stated CCR&R did not receive a copy of the receipt from the Appellant until October 2016, when the Appellant submitted it by email.

Although it is credible that the Appellant paid the outstanding balance of \$118.75 to [REDACTED], there was not sufficient evidence to support that verification of payment was provided to CCR&R by August 25, 2016.

CONCLUSION OF LAW

Because the Department did not receive verification of payment of outstanding fees owed to Oakhurst Child Development Center within 13 days of issuance of the Child Care Parent Closure Notice as required by policy, the Department took correct action in closing the Appellant's Child Care services case on August 25, 2016.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's action to close the Appellant's Child Care services.

ENTERED this 1st Day of December 2016.

**Natasha Jemerison
State Hearing Officer**