



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 East Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

January 20, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-3557

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,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

cc: [REDACTED], Connect Child Care Resource and Referral

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

██████████,

**Appellant,**

v.

**ACTION NO.: 15-BOR-3557**

**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 January 19, 2016, on an appeal filed November 25, 2015.

The matter before the Hearing Officer arises from the November 30, 2015, decision by the Respondent to deny the Appellant's application for the WV Connect Child Care Resource and Referral (WV CCC) Program.

At the hearing, the Respondent appeared by ██████████ of Connect Child Care Resource and Referral. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Application for the WV CCC Program, dated November 6, 2015
- D-2 Notification for New Applicants / Pending Verification List, dated November 6, 2015
- D-3 Statement of disability from physician of Appellant's husband, dated October 5, 2015, and copies of children's birth certificates
- D-4 WV DHHR Medical Verification form signed by physician of Appellant's husband, dated November 9, 2015, and income verifications from Appellant's employment
- D-5 Request for policy exemption, undated
- D-6 E-mail notification of policy exemption denial, dated November 23, 2015
- D-7 Child Care Parent Notification Letter / Notice of Denial or Closure, dated November 23, 2015
- D-8 Child Care Parent Notification Letter / Notice of Denial or Closure (Corrected), dated November 30, 2015
- D-9 WV CCC Program policy, §6.5 and §4.7

**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 applied for the WV Connect Child Care Resource and Referral (WV CCC) Program on November 6, 2015 (Exhibit D-1). The application listed four people in the Appellant's household, herself, her husband and their two children. Attached to the application was a copy of her husband's application for Social Security - Disability.
- 2) Although the Appellant's husband was not working at the time of the application and therefore was available to provide day care for their children, the Appellant maintained her husband could not provide this care due to his medical disability. She submitted to the Department an Exemption Request for Medical Reasons form (Exhibit D-5), requesting that this portion of WV CCC policy be waived for their application.
- 3) On November 23, 2015, the Department sent to the Appellant a Parent Notification of Denial or Closure (Exhibit D-7), informing her that her application for the WV CCC Program was denied because her husband was not in a qualified work activity. The letter contained parenthetical information to the effect that her request for an exemption to the policy requiring both parents to be in a qualified work activity was denied.
- 4) The November 23 denial letter (Exhibit D-7) contained certain factual errors, so the Department sent to the Appellant a second denial letter (Exhibit D-8) on November 30, 2015, correcting these errors.

**APPLICABLE POLICY**

The WV Bureau for Children and Families (BCF) Division of Early Care and Education Child Care Subsidy Policy and Procedures Manual (herein "the Child Care policy manual") establishes the eligibility criteria for the WV CCC program.

§3.2.4 of the Child Care policy manual states as follows:

**Two Parent Households**

If both parents, or a parent and step-parent are in the home, child care services cannot be approved for work or training related needs unless both are working or attending school/training.

§6.5.1 of the Child Care policy manual states as follows in pertinent part:

**Illness**

In unusual, extraordinary circumstances, exceptions to eligibility policy can be requested. Exceptions will be granted on an individual basis and only in situations where the circumstances of the client are so different from the norm that the policy is unfair or inappropriate when applied to the individual client.

§4.7.1 of the Child Care policy manual states as follows:

**Illness**

In certain extraordinary situations, child care may be approved for children under the age of six years in the following circumstances: a family member's release from hospitalization; a recent determination of a temporary or permanent disability of a parent; physician-ordered bed rest during pregnancy; medical treatment for a terminal illness.

§4.7.1.2 of the Child Care policy manual states as follows:

**Recent Determination of Temporary or Permanent Disability**

A disability exception approval will not exceed 6 months. This category of policy exception is for one time only per child care case or same family. The exception is granted in order to give the family time to prepare and plan for coping with the disability and finding alternate child care arrangements/assistance. In cases of newly-determined temporary or permanent disability of the parent, the documentation shall include, but not be limited to:

- A. An official disability determination by a state or federal agency with a determination date that is within three months of the child care application or redetermination.
- B. A treatment plan and the medical statement by a licensed physician which describes how this condition prevents the care of children.
- C. A disability exception approval will not exceed 6 months.

**DISCUSSION**

As stated above, the Appellant applied for the WV CCC program on November 6, 2015. She requested an exemption from the policy requirement that both parents in a two-parent household be working or attending school or training because her husband had a medical condition which prevented him from caring for their children. Her application for the program included a copy of her husband's application for Social Security - Disability benefits (Exhibit D-1, pages 8 - 15).

After the Appellant submitted her application, she provided to the Department a written statement from her husband's physician dated October 5, 2015 (Exhibit D-3), which stated "[Appellant' Spouse] can no longer work." She also provided a WV CCC Program Medical

Verification form signed by her husband's physician (Exhibit D-4, page 2), indicating the physician confirmed the husband could not provide child care due to his medical condition.

However, the Appellant did not provide an official determination of disability by a state or federal agency. For this reason, the Department acted correctly to deny the Appellant's request for a policy exemption to the WV CCC Program requirement that both parents in a two-parent household be working or enrolled in school or training.

### **CONCLUSION OF LAW**

The Appellant did not provide an official disability determination by a state or federal agency dated within three months of her application for the WV CCC Program. Therefore, pursuant to §4.7.1.2 of the Child Care policy manual, the Department acted correctly to deny her request for a policy exception to the requirement that both parents in a two-parent household be "working or attending school/training."

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Department's proposal to deny the Appellant's application for the WV Connect Child Care Resource and Referral Program.

**ENTERED this 20<sup>th</sup> Day of January 2016.**

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**Stephen M. Baisden**  
**State Hearing Officer**