



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

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M. Katherine Lawson
Inspector General

February 28, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 18-BOR-1095

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Kristall Chambers, Department Representative

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

██████████,

Appellant,

v.

Action Number: 18-BOR-1095

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 February 8, 2018, on an appeal filed January 10, 2018.

The matter before the Hearing Officer arises from the January 5, 2018 decision by the Respondent to terminate the Appellant's Child Care services due to excessive income.

At the hearing, the Respondent appeared by Kristall Chambers. 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.

EXHIBITS

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Child Care Subsidy Policy Manual (excerpts)
- D-3 Child Care Parent Notification of Redetermination
Date of notice: November 29, 2017
- D-4 Income Verification for the Appellant's household
Copies of pay stubs for ██████████
Copies of pay verification for ██████████

- D-5 Income Calculator (form) for Appellant and spouse
- D-6 Child Care Parent Notification Letter Notice of Denial or Closure
Date created: January 5, 2018
- D-7 Child Care Subsidy Policy Manual (excerpt)

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) By notice dated November 29, 2017 (Exhibit D-3), the Respondent advised the Appellant that she must complete and return a form to be used to redetermine her eligibility for Child Care services.
- 3) The Appellant completed the form and verified household income of \$3968.43. (Exhibits D-4 and D-5)
- 4) By notice dated January 5, 2018, the Respondent advised the Appellant that her Child Care services would be terminated due to excessive income. This notice reads, in pertinent part, “Your reported monthly gross income of \$3,968.43 exceeds the income limit of \$3,793.00.” (Exhibit D-2)

APPLICABLE POLICY

Child Care policy requires a determination of financial eligibility for new applicants and recipients. This policy requires a determination of family size and monthly gross income for the family, and families whose income “falls at or below the appropriate level are eligible.” (Child Care Subsidy Policy, §5.0)

At §5.2.1.1, this policy reiterates that monthly gross income is the amount countable when considering employment income, and reads, “The amount considered as income is earnings before deductions are made for taxes, bonds, pensions, union dues or any similar type of deductions.”

Appendix A of Child Care Subsidy Policy provides the gross income limits for Child Care services, and the limit for a four-person family is \$3,793.00.

DISCUSSION

The Respondent terminated the Child Care services of the Appellant based on a determination of excessive income during a review of ongoing eligibility. The Respondent must show by a preponderance of the evidence that its determination of excessive income for the Appellant's household was correct.

The Respondent properly determined the household income for the Appellant, and household size was not disputed. The Appellant contended that gross income should not have been used, but this is not supported by Child Care policy, and the Board of Review cannot make policy exceptions. The Appellant has wage attachments that reduce her net income considerably, but policy clearly states that eligibility for the program is determined using gross income rather than net income.

The Respondent acted correctly in determining the Appellant's household income and terminating her Child Care services due to excessive income for that program.

CONCLUSION OF LAW

Because the Appellant's household income exceeds the program limit allowable by Child Care policy, the Respondent was correct to terminate the Appellant's Child Care services.

DECISION

It is the decision of the State Hearing Officer to **uphold** the action of the Respondent to terminate the Appellant's Child Care services due to excessive household income.

ENTERED this ____ Day of February 2018.

**Todd Thornton
State Hearing Officer**