



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

Bill J. Crouch
Cabinet Secretary

Board of Review
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-0955 Fax: (304) 558-1992

Jolynn Marra
Interim Inspector General

September 28, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 18-BOR-1987

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: Lorie Wallace, DHHR / Ashley McDougal, DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

██████████,

Appellant,

v.

Action Number: 18-BOR-1987

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 August 9, 2018, on an appeal filed July 5, 2018.

The matter before the Hearing Officer arises from the June 29, 2018 decision by the Respondent to terminate the Appellant's Child Care services for excessive household income.

At the hearing, the Respondent appeared by Ashley McDougal and Lorie Wallace. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 Child Care Assistance Status Check
 Date signed: June 5, 2018

- D-2 Income verification for the Appellant
 Pay dates: May 10, 2018 – May 24, 2018

- D-3 Income verification for the Appellant's son
 Social Security Administration letter dated June 2, 2018

- D-4 Income verification for the Appellant’s husband
Check dates: June 6, 2018 – June 27, 2018
- D-5 Income calculation spreadsheet for the Appellant’s household
Calculation with holiday pay included
- D-6 Income calculation spreadsheet for the Appellant’s household
Calculation without holiday pay
- D-7 Prorating Guide worksheet
- D-8 Child Care Subsidy Policy (excerpt)
Chapter 5, §5.2.1.1
- D-9 Child Care Subsidy Policy (excerpt)
Chapter 5, §5.3.2.1
- D-11* Child Care Parent Notification Letter Notice of Denial or Closure
Notice date: June 29, 2018

Appellant’s Exhibits:

- A-1 Letter from Appellant
Letter date: July 22, 2018
- A-2 Child Care Certificate – Issue date June 11, 2018
Child Care Certificate – Issue date June 19, 2018
- A-3 Income verification for the Appellant’s household
Social Security Administration letter dated June 2, 2018
Pay stubs for the Appellant, pay dates: January 18, 2018 – July 5, 2018
Pay stubs for the Appellant’s husband, check dates: January 10, 2018 – June 27, 2018
- A-4 Child Care Parent Notification Letter Notice of Denial or Closure
Notice date: June 29, 2018

* There was no Exhibit D-10 entered.

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) The Appellant submitted documentation as part of her review of eligibility for Child Care services, including review documents (Exhibit D-1) and income verification for herself (Exhibit D-2), her son (Exhibit D-3) and her husband (Exhibit D-4).
- 3) By notice dated June 27, 2018, the Respondent advised the Appellant that “You are no longer eligible for child care services because: your reported monthly gross income of \$4613.20 exceeds the income limit of \$4437 for a family of 5.” (Exhibits D-11, A-4)
- 4) The Appellant has a household consisting of five individuals.
- 5) The Appellant has total household income of \$4613.20.
- 6) The Appellant’s household income exceeds the \$4437 income limit for a household size of five.

APPLICABLE POLICY

Child Care policy defines monthly gross income as “the total amount of money, prior to deductions, received or earned monthly by the members of the family.” (Child Care Subsidy Policy, §5.2) This policy further states that income not received on a monthly basis must be converted to a monthly amount.

Child Care policy addresses the employment income considered in determining eligibility at §5.2.1, and defines countable employment income as including wages (Child Care Subsidy Policy, §5.2.1.1.A) and commissions. (Child Care Subsidy Policy, §5.2.1.1.C)

Child Care policy addresses the treatment of irregular income at §5.3.2. For converting income received less often than once a month, the amount is divided by the number of months it is intended to cover. (Child Care Subsidy Policy, §5.3.2.1)

Child Care policy sets the income limit for a recipient household of five (5) at \$4437. (Child Care Subsidy Policy, Appendix A)

DISCUSSION

The Respondent terminated the Child Care services of the Appellant based on excessive household income. The Respondent must show by a preponderance of the evidence that the Appellant has household income over the limit for her household size.

The Appellant submitted review documents and income verification as part of a regular review of her ongoing eligibility for Child Care services. The Respondent calculated her household income and determined it was over the limit for a family of five. There was no dispute in the hearing regarding the Appellant’s household size, her income or the income of her son.

The Appellant's husband had income from regular wages, as well as income designated on his pay stubs as "holiday pay" and commissions. The "holiday pay" distinction has no effect on its treatment as employment income. Commissions are countable employment income as well, and neither party provided income verification to support a contention that proration of this income should be for more than six months. The Respondent gave this income the most favorable treatment it could have given the information available: treating "the number of months it is intended to cover" as the six-month period that could be derived from June 2018 pay stubs (Exhibit D-4) with year-to-date amounts. The Respondent was correct to include both holiday pay and commissions in its determination of the Appellant's household income.

The Appellant had countable monthly employment income of \$1968.52. The Appellant's son had countable monthly unearned income of \$573.75. The Appellant's husband had countable monthly employment income of \$2070.93 – including wages of \$1986.60 and \$84.33 in prorated commissions (the \$504.00 year-to-date commission amount shown in Exhibit D-4, divided by six months). The Appellant's total monthly household income was \$4613.20, over the income limit for current recipients of Child Care services.

The Respondent acted correctly in terminating the child care services of the Appellant for excessive household income.

CONCLUSION OF LAW

Because the Appellant has household income over the limit set by policy for her household size, 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 for excessive household income.

ENTERED this ____ Day of September 2018.

Todd Thornton
State Hearing Officer