



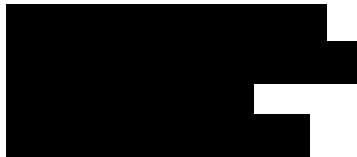
STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

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

M. Katherine Lawson
Inspector General

February 16, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2850

Dear Mr. [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: Michael Jackson, Esq., Assistant Attorney General

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2850

**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 January 3, 2018, on an appeal filed November 21, 2017.

The matter before the Hearing Officer arises from the November 6, 2017 decision by the Respondent to deny the Appellant's application for Child Care services.

At the hearing, the Respondent appeared by Michael Jackson, Esq., Assistant Attorney General. Appearing as a witness for the Respondent was ██████████. The Appellant appeared by ██████████, Esq. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 Child Care application documents
 Notice excerpt; Data system screen print (FACTS); Income calculator
 Application for Child Care Services, signed October 25, 2017
 Supporting documentation

- D-2 Child Care Parent Notification Letter Notice of Denial or Closure
 Notice date: November 6, 2017

- D-3 Data system screen prints (RAPIDS)

Appellant's Exhibits:

A-1 Rights and Responsibilities (DFA-RR-1) form (blank)

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 contested a prior action by the Respondent to deny her Child Care services, and the Board of Review reversed the Respondent's proposed denial in a September 29, 2017 decision. (Board of Review Action Number 17-BOR-2039)
- 3) Rather than comply with this decision, the Respondent forced the Appellant to reapply for Child Care services. (Exhibit D-1)
- 4) The Respondent mailed an inadequate notice of denial on November 6, 2017. This notice advised the Appellant that her application was denied because she "...failed to fully disclose income," and set an appointment for the Appellant to appear for "...further explanation of this matter." This notice failed to provide a complete reason for the action or the applicable policy. (Exhibit D-2)
- 5) The Respondent accessed information regarding the Appellant's case in the RAPIDS data system.
- 6) There was no testimony from an individual trained to read and interpret screen prints from RAPIDS.
- 7) There was no testimony that the Respondent confirmed the information obtained from RAPIDS with an individual trained to read and interpret that information.
- 8) The Respondent did not "pend" or request verification from the Appellant regarding the information discovered in the Appellant's RAPIDS case.
- 9) In October 2016, the Appellant received \$200 per month income from another person, "as needed at the time," and reported this for purposes of applying for an unrelated program.
- 10) In May 2017, as well as at the time of the October 2017 application for Child Care services, the Appellant no longer received this income.

APPLICABLE POLICY

Child Care policy requires workers to properly notify applicants of their application status. Specifically, this policy requires the issuance of a “Child Care Parent Notification Letter” if the applicant is not eligible for services (§2.2.3.1), but if the application cannot be completed due to the need for additional information or documentation the worker is required to issue a “Parent Notification Letter” indicating that the application will be denied if the necessary information is not received within 13 days (§2.2.3.2).

DISCUSSION

The Respondent denied the Appellant’s application for Child Care services based on an allegation of unreported income. The Respondent must show, by a preponderance of the evidence, that the Appellant had the income in question, failed to report it, was given proper notification of the necessary information to complete her application, and was given proper notification of the denial itself.

The Respondent failed to establish the basis for its case. It is unclear that the Respondent should have ever required the Appellant to reapply for services after the previous decision issued by the Board of Review. If a new application was required, the Respondent did not act correctly upon discovery of contradictory information. The Respondent obtained this information – which would have been available in RAPIDS (a data system used by workers for the Respondent who maintain SNAP and Medicaid cases) at any time after November 17, 2016 – but did not issue a “Parent Notification Letter” to the Appellant and allow her 13 days to provide the necessary information to support her application. Had the Respondent taken this step, it would have discovered the information it relied on was outdated. The Appellant had the income shown in the data system used for SNAP case maintenance at the time she applied for that program, but no longer had that income at the time she was forced to reapply for Child Care services in October 2017. Finally, the Respondent failed to issue proper notification of the denial to the Appellant. Part of the intent of such a notice is to provide the reason for the action, not to require the applicant to appear for a meeting in which the reason will be divulged.

The Respondent was incorrect in its decision to deny the Appellant’s application for Child Care services.

CONCLUSION OF LAW

Because the Appellant does not have the income source alleged by the Respondent, the Respondent must not deny her application for Child Care services.

DECISION

It is the decision of the State Hearing Officer to **reverse** the action of the Respondent to deny the Appellant's application for Child Care services.

ENTERED this ____ Day of February 2018.

**Todd Thornton
State Hearing Officer**