



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Interim Inspector General

January 24, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO: 19-BOR-2826

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

Cc [REDACTED], [REDACTED]

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

██████████,

Appellant,

v.

Action Numbers: 19-BOR-2826

**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 16, 2020, on an appeal filed December 5, 2019.

The matter before the Hearing Officer arises from the December 2, 2019 decision by the Respondent to terminate Child Care benefits.

At the hearing, the Respondent appeared by ██████████, Supervisor, ██████████. Appearing as a witness for the Respondent was ██████████, Case Manager, ██████████. The Appellant appeared *pro se*. The witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Child Care Parent Notification Letter Notice of Redetermination mailed on November 1, 2019
- D-2 Provider Notification Letter- Parent's Eligibility for Child Care sent to ██████████, dated November 15, 2019
- D-3 Provider Notification Letter- Parent's Eligibility for Child Care sent to ██████████, dated November 15, 2019
- D-4 Child Care Parent Notification Notice of Denial or Closure dated December 2, 2019
- D-5 Application for Child Care Services dated December 5, 2019
- D-6 Client's pay stubs
- D-7 Income calculator

- D-8 Child Care Parent Notification Letter Notice of Denial or Closure dated December 5, 2019
- D-9 West Virginia Child Care Subsidy Policy & Procedures Manual Sections 2.5.4 and 6.1 and Appendix A

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 benefits.
- 2) The Respondent sent the Appellant a benefit redetermination form (status review) on or about November 1, 2019 (D-1). The notification indicates that the redetermination form must be completed and returned to the Respondent by November 15, 2019 or Child Care benefits would be terminated effective November 30, 2019.
- 3) The redetermination form was not submitted by November 15, 2019.
- 4) The Respondent sent Provider Notification Letters to [REDACTED] and [REDACTED] on November 15, 2019 indicating that the Appellant would be ineligible for Child Care benefits effective November 30, 2019 (D-2 and D-3).
- 5) The Respondent sent the Appellant a letter on December 2, 2019 informing her that her Child Care case closed effective November 30, 2019 (D-4).
- 6) The Appellant reapplied for Child Care benefits on December 5, 2019 (D-5, D-6 and D-7) and the Respondent determined her countable monthly income to be \$3,793.03 (regular monthly income plus prorated longevity pay).
- 7) The Appellant's income should have been calculated as \$3,787.70 per month.
- 8) The Respondent sent the Appellant a notice on December 5, 2019 indicating that her Child Care application was denied because her monthly income exceeded the income limit of \$3,771 per month for a family of five (D-8).

APPLICABLE POLICY

West Virginia Child Care Subsidy Policy & Procedures Manual Chapter 2.5.4.12 states that the Child Care agency will send a status check to the client, by mail, 30 days before the Child Care Certificate expires. However, it remains the parent's responsibility to obtain and complete a status check to renew the certificate (D-9).

West Virginia Child Care Subsidy Policy & Procedures Manual Chapter 6.1.1 states that the financial eligibility of each family receiving Child Care services shall undergo a status check periodically. A status check must be completed on each case during the twelfth month of the current service period, or more frequently as needed (D-9).

West Virginia Child Care Subsidy Policy & Procedures Manual Chapter 6.1.2.1 states that when a status check is due, the forms are mailed to the parent. The family will be asked to complete and return the form. The status check form shall be mailed no later than the first day of the month, with the due date the 15th day of the month and closure date 13 days later or the last day of the month (D-9).

West Virginia Child Care Subsidy Policy & Procedures Manual Chapter 6.1.2.2 states that the parent needs to return the status review with all required documentation/verification for work, school and income. If it is not returned by the 15th day, then the Provider Certificate Notification Letter shall be sent to the Child Care provider notifying her of the parent closure effective the last day of the month (D-9).

West Virginia Child Care Subsidy Policy & Procedures Manual Appendix A states that the intake cap for a five-person family is \$3,771 per month (D-9).

DISCUSSION

Child Care Policy states that a Child Care recipient must complete and return a redetermination form (status check) by the 15th day of the month in the 12th month of the service period. If the review is not completed, Child Care benefits are terminated 13 days later or on the last day of the month.

The Appellant was mailed a redetermination form which was due by November 15, 2019. The form was not returned, and benefits were subsequently terminated.

The Appellant testified that she has had problems with her mail service and did not receive the redetermination form. The Respondent's witness testified that the redetermination form was not returned to the agency as undeliverable. The Appellant indicated that when she received the Child Care termination letter, she reapplied for benefits, but was denied due to excessive income. It should be noted that the Respondent calculated the Appellant's monthly income as \$3,793.03 by counting her regular monthly income and then dividing her longevity pay over 11.25 months to determine a monthly average. The Appellant's longevity pay should have been divided over 12 months, making her monthly income \$3,787.70 per month.

As the Appellant's redetermination form was not returned to the Respondent as undeliverable and the Appellant did not complete a case redetermination by November 15, 2019, the Respondent acted correctly in terminating benefits. The Respondent acted correctly in denying the Appellant's December 2019 Child Care application based on excessive income.

CONCLUSIONS OF LAW

- 1) The Appellant failed to complete a redetermination of Child Care benefits by November 15, 2019.
- 2) The Respondent's action to terminate Child Care benefits effective November 30, 2019 was correct based on policy.
- 3) The intake cap for Child Care benefits for a five-person household is \$3,771.
- 4) The Respondent calculated the Appellant's countable monthly income as \$3,793.03.
- 5) The Appellant's December 2019 Child Care application was correctly denied based on excessive income.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Respondent's action to terminate Child Care benefits effective November 30, 2019 and deny the Appellant's December 2019 Child Care application based on excessive income.

ENTERED this 24th Day of January 2020.

**Pamela L. Hinzman
State Hearing Officer**