



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

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
Raleigh County DHHR
407 Neville Street
Beckley, WV 25801

Sheila Lee
Interim Inspector General

October 25, 2022

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-2202

Dear [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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Randy Brown and Melissa Proffitt, MountainHeart Resource and Referral Agency

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

████████████████████,

Appellant,

v.

Action Number: 22-BOR-2202

**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 October 18, 2022, on an appeal filed September 27, 2022.

The matter before the Hearing Officer arises from the decision by the Respondent to deny the Appellant's request for Child Care payment for August 16 through September 25, 2022.

At the hearing, the Respondent appeared by Melissa Proffitt, Case Manager with MountainHeart Resource and Referral Agency. Appearing as a witness for the Respondent was Randy Brown, Supervisor with MoutnainHeart Resource and Referral Agency. The Appellant was self-represented. The witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request received September 27, 2022
- D-2 Letter from Appellant received September 27, 2022
- D-3 Hearing Request Notification Form
- D-4 Department's Case Closure Timeline
- D-5 Child Care Parent Notification Letter Notice of Denial or Closure (DAY-0179) dated June 3, 2022
- D-6 Provider Notification Letter – Parent's Eligibility for Child Care (DAY-0613) dated June 3, 2022
- D-7 Provider Notification Letter – Parent's Eligibility for Child Care dated June 24, 2022
- D-8 Child Care Certificate (DAY-0176) issued April 25, 2022

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 was a recipient of subsidized Child Care benefits for [REDACTED].
- 2) The Appellant and his wife are employed; the Appellant's wife is a teacher.
- 3) On June 3, 2022, the Appellant's Case Manager with MountainHeart Resource and Referral Agency (MountainHeart) issued a Child Care Parent Notification Letter Notice of Denial or Closure requesting verification of an activity for the Appellant's wife by June 17, 2022, to avoid case closure (Exhibit D-5).
- 4) The June 3 notice advised that since the school year had ended, verification of an activity was required to continue receiving Child Care services.
- 5) The Appellant's Child Care provider, [REDACTED], was sent a Provider Notification Letter – Parent's Eligibility for Child Care on June 3, 2022, advising that the Appellant was found ineligible for Child Care services effective June 17, 2022 (Exhibit D-6).
- 6) The Appellant's Child Care benefits were terminated effective June 17, 2022, when verification of an activity for the Appellant's wife had not been received.
- 7) The Respondent issued another Provider Notification Letter – Parent's Eligibility for Child Care on June 24, 2022, to [REDACTED] advising that payment for [REDACTED] would not be made after June 17, 2022 (Exhibit D-7).
- 8) Child Care was not utilized during the 2022 summer break.
- 9) The Appellant's wife returned to work on or around August 16, 2022, when the 2022-2023 school year started.
- 10) [REDACTED] billed the Respondent for [REDACTED] care for August 2022 and was notified that the Appellant's case was closed.
- 11) Upon learning of the case closure from [REDACTED], the Appellant reapplied for Child Care benefits, which were approved effective September 26, 2022.

- 12) The Appellant contests the denial of payment for [REDACTED] care from August 16-September 25, 2022.

APPLICABLE POLICY

Child Care Subsidy Policy and Procedure Manual states:

4.0. Need for Child Care

To be eligible for Child Care assistance, families must demonstrate a need for care. In general, that means that the head of household must be involved in a qualifying activity that prevents the parent from providing care and supervision of the children in the household during the time the parent is participating in the activity. If there are two parents in the home, both must be involved in a qualifying activity.

4.8. Interim Care

For periods in which the client is unable to participate in their qualifying activity for any of the reasons listed in 4.10.1, interim Child Care may be approved and paid under the guidelines in this section. 4.8.1. Allowable interim care reasons:

4.8.1.1 Temporary employment shutdowns (less than 45 days). Example: A factory shuts down every July for two weeks to do maintenance. The client is unable to attend work because the factory is closed, and the period of temporary shutdown (less than 45 days) is too short to warrant participation in a different qualifying activity.

4.8.1.2 Breaks of no more than 45 days between training courses or school sessions.

- Spring Break.
- Semester Breaks between terms, i.e., between winter and spring terms or between spring and summer terms.
- Breaks between different sessions of trade instruction.
- Jury Duty: Parents must submit documentation of jury summons.

4.8.2 Interim care cannot be approved for:

- Illness
- Extended absences that do not coincide with breaks in school or employment.
- Absences due to extreme weather conditions.
- Breaks of more than 45 days. For example, interim care cannot be approved for the summer break between spring and fall sessions. Clients wishing to use care between breaks of more than 45 days must participate in a qualifying activity.

6.1.4 Need for Care 90 Day Tickler

Child Care resource and referral staff will use the FACTS tickler system monthly to review payment history of all cases identified as having no payment for 90 days. Any parent who does not use Child Care assistance for an extended period no longer has an established need for Child Care assistance and therefore may not remain an active case.

6.1.4.1 Any case which has not utilized Child Care for a 3-month period or longer shall be sent notice that the case will be closed.

6.1.4.2 Procedures for notification to the parent and the provider of a negative action shall be followed. If notice is being sent at the time of redetermination, then the DAY-0612 (Parent

Notification of Redetermination) will be used to notify the parent of the case closure and reason with the explanation that the status check is to be returned only if the parent disagrees with notice to close and completes a request for a conference (second page of the notice). The DAY-0613 will be sent to notify the provider of the case closure. It will be important in these cases for the CCR&R worker to establish contact with the parent in order to determine need.

DISCUSSION

Pursuant to policy, interim Child Care services may be approved during temporary shutdowns of employment not exceeding forty-five (45) days. Interim Child Care cannot be approved for breaks in employment lasting longer than 45 days. The Respondent terminated the Appellant's Child Care benefits when he failed to verify that his wife was in a work activity during the 2022 summer break since her break from employment would exceed 45 days.

The Appellant testified that he did not receive the June 3, 2022, notice requesting verification of his wife's employment and contended that [REDACTED] did not receive the notices of the case closure. The Appellant stated that he has been receiving Child Care benefits since April 2021 and he was not asked to submit verification of his wife's employment for the summer break of 2021.

Melissa Proffitt, Case Manager with MountainHeart, testified that she spoke with [REDACTED] with [REDACTED], who confirmed that the facility did not receive notice of the Appellant's case closure. Ms. Proffitt stated that the Appellant's previous Case Manager did not request verification of his wife's employment during the summer break of 2021 or require a new application when she returned to work the fall semester of 2021.

Policy states that payment history for Child Care cases should be reviewed monthly to identify any cases that have not used Child Care for ninety (90) days. Any case that has not utilized Child Care for more than three (3) months will be closed.

The Appellant did not utilize Child Care during the summer break of 2022 when his wife was not in an activity, and he was not required to reapply for Child Care benefits after the summer break of 2021 ended. Credible testimony from the Appellant revealed that he did not receive the June 3 notice advising of case closure if verification of his wife's activity was not provided. Testimony from the Respondent supported the Appellant's contention that his Child Care provider did not receive notice of case closure and confirmed that the Appellant was not required to reapply for benefits the previous year.

Policy only requires closure for cases that do not use Child Care exceeding 90 days. The period in which the Appellant did not use Child Care services did not exceed 90 days, therefore his case did not meet the criteria found in policy for closure. Although the Respondent contended that interim Child Care cannot be approved for breaks in employment exceeding 45 days, the Appellant did not use or request payment for Child Care services rendered during the summer break.

Whereas the Appellant did not use Child Care services during his wife's break from employment

during the summer break of 2022 and this lapse in use of Child Care services did not exceed 90 days, the Respondent's decision to close the Appellant's Child Care case and deny payment for August 16 through September 25, 2022, cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Policy stipulates that interim Child Care cannot be approved for breaks in employment exceeding 45 days.
- 2) The Appellant did not use Child Care during his wife's break from employment during the summer of 2022.
- 3) Policy stipulates that any case that does not utilize Child Care for over 90 days must be closed.
- 4) The period in which the Appellant did not utilize Child Care services during the summer break of 2022 did not exceed 90 days.
- 5) The closure of the Appellant's Child Care case does not meet the criteria found in policy and cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to close the Appellant's Child Care case and deny payment of Child Care services rendered August 16 through September 25, 2022.

ENTERED this 25th day of October 2022.

Kristi Logan
Certified State Hearing Officer