



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
(304) 746-2360, ext. 2227

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

April 1, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1268

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,

Donna L. Toler
State Hearing Officer
Member, State Board of Review

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

cc: Lynette N. Stewart, CCR&R Supervisor

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

██████████,

Claimant,

Action Number: 15-BOR-1268

v.

**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 March 31, 2015, on an appeal filed February 9, 2015.

The matter before the Hearing Officer arises from the February 9, 2015 decision by the Respondent to deny Claimant's application for child care services.

At the hearing, the Respondent appeared by Lynette Stewart, Connect CCR&R Family Services Supervisor. The Claimant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Child Care Parent Notification of Redetermination dated January 1, 2015
- D-2 Provider Notification Letters - Parent's Eligibility for Child Care dated January 15, 2015
- D-3 Child Care Parent Notification Letter Notice of Denial or Closure dated February 2, 2015
- D-4 Child Care Subsidy Policy Manual §§6.0 through 6.1.3.2
- D-5 Application for Child Care Services dated February 9, 2015
- D-6 Income verification for Claimant dated January 16, 2015 and January 30, 2015
- D-7 Income Calculator form for Claimant
- D-8 Child Care Subsidy Policy Manual Appendix A
- D-9 Child Care Subsidy Policy Manual §§3.0 through 3.2.4
- D-10 Child Care Parent Notification Letter Notice of Denial dated February 9, 2015

Claimant'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) On or about January 1, 2015, the Respondent mailed a Notification of Redetermination form to the Claimant. The notice indicated that the Claimant was required to return the redetermination form along with required verifications prior to January 15, 2015, and that failure to do so would result in case closure on January 31, 2015. (Exhibit D-1)
- 2) The Claimant failed to return the Notice of Redetermination form prior to the January 15, 2015 due date. On February 2, 2015, notice that the Claimant was no longer eligible for child care services, effective January 31, 2015, was mailed to the Claimant and her children's daycare provider. (Exhibits D-2 and D-3).
- 3) On or about February 9, 2015, the Claimant re-applied for child care services by completing an application. The Claimant requested child care benefits based on a household of three (3). The Claimant's application included verification of her monthly income. (Exhibits D-5 and D-6)
- 4) The Claimant received gross income in the amount of \$1,302.50 semi-monthly, a total of \$2,605.00 per month. (Exhibits D-7 and D-8)
- 5) Policy establishes income guidelines for child care services applicants. The income limit or cap for a three-person household is \$2,474 per month. (Exhibit D-8)
- 6) On or about February 9, 2015, notice was mailed to the Claimant that her application for child care services had been denied because her income was over the income limit to receive services through the Department. The notice (Exhibit D-10) reads in pertinent part as follows:

Your application for child care has been denied because: Your monthly gross income of \$2605.00 exceeds the intake limit of \$2474.00 for a family of (3) three.

- 7) The Claimant argued that she never received the redetermination form from the Department and did not know that her child care services had been terminated until her day care provider notified her. The Claimant agreed that the address contained on the form was correct, but contended that the Department did not establish proof that they had actually mailed the paperwork to her because they had not sent it via certified mail. The Claimant added that she had been on the lookout for the redetermination paperwork because she knew that it was due sometime in January or February 2015, but that it was

never received. The Claimant stated that she did not think she should be penalized for being a week late in turning in her paperwork. The Claimant testified that after mandatory payroll deductions of taxes and retirement, she is left with a net income of \$880.00 semi-monthly. The Claimant elaborated that child care services cost \$140.00 per week. The Claimant testified that without the child care services she may have to quit her job, adding that without a job she will lose her mortgaged home.

- 8) The Respondent's representative, Katie Young (Ms. Young), stated that a log is kept of all incoming mail, including returned mail. Ms. Young reported that she checked the log and could find no returned mail logged for the Claimant. Ms. Young elaborated that if mail is returned standard office procedure requires them to contact the individual immediately to verify their residence.

APPLICABLE POLICY

Child Care Policy §2.3.4.12 mandates that benefit recipients renew their child care certificate by completing a status check at least two (2) weeks before the current certificate expires. The Department will send a status check to the client by mail 30 days before the certificate expires. However, it remains the parent's responsibility to obtain and complete a status check to renew the certificate.

Child Care Policy §3.2.1 requires that monthly gross income, determined by the family size, fall within the eligibility guidelines contained in Appendix A of the Child Care Policy manual to establish eligibility for child care services.

Child Care Policy, Appendix A, is a chart of income limits for entry and exit eligibility. The cap for a three (3) person household is \$2,474.00 per month, or 150% of the Federal Poverty Level.

Child Care Policy §6.1.2.1 indicates that when a status check (redetermination) is due, a Notification of Redetermination form is to be mailed to the parent. The family is asked to complete and return the form no later than the 15th of the month. Failure to return the form by the due date results in termination of child care benefits on the last day of the month.

DISCUSSION

Child Care Policy in Appendix A of the policy manual sets forth the income guidelines for new applicants. A household of three (3) must have a total gross income of no more than \$2,474.00 per month. The Claimant's monthly gross income of \$2,605.00 is clearly in excess of the established limits. The Claimant did not dispute that her income was in excess of limits, but argued that it was unfair that she was penalized for being a week late. The Claimant also contended that the new applicant income limits should not be applied to her because the Department should have notified her via certified mail that she was due for a redetermination.

Policy establishes that the Respondent is required to notify program participants when an eligibility redetermination is due and the penalties for failing to provide the information by the due date. The Department complied with the policy requirements. Policy does not require the Department send the notices via certified mail. The Claimant testified that she knew her renewal was due sometime in January and February, and policy indicates that it is the benefit recipient's responsibility to complete a status check to renew their certificate.

Policy requires that in circumstances when the redetermination is not returned by the established deadline, the case must be closed and that a new application is required for consideration of future benefits.

CONCLUSION OF LAW

Policy limits the monthly gross income for applicants of Child Care Services. Income for a household of three (3) cannot exceed \$2,474.00. The Claimant's gross monthly income of \$2,605.00 at the time of the February 9, 2015 application is in excess of the established policy limits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny Claimant's application for Child Care services.

ENTERED this ____ Day of April 2015.

Donna L. Toler
State Hearing Officer