



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
416 Adams St.
Fairmont, WV 26554

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

September 10, 2015



RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-2407

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,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

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

cc: Melissa Harvey/Heather Tallman, Child Care Resource Center

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

██████████,

Appellant,

v.

Action Number: 15-BOR-2407

**CHILD CARE RESOURCE CENTER
/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 September 8, 2015, on an appeal filed June 25, 2015.

The matter before the Hearing Officer arises from the June 12, 2015 decision by the Respondent to propose termination of Appellant's subsidized Child Care benefits.

At the hearing, the Respondent appeared by Melissa Harvey, Director, Child Care Resource Center (CCRC). Appearing as a witness for Respondent was Heather Tallman, Supervisor, CCRC. The Appellant appeared pro se.

Respondent's Exhibits:

- | | |
|-----------|---|
| Exhibit-1 | WVDHHR Child Care Assistance Status Check – signed by Appellant on 6/8/15 |
| Exhibit-2 | Electronic Mail (E-Mail) correspondence initiated by ██████████ on 6/10/15, regarding Appellant's child support case |
| Exhibit-3 | E-Mail correspondence from ██████████ dated 6/10/15, verifying members included in Appellant's benefits received through the WVDHHR |
| Exhibit-4 | Instant Message (IM) conversation on 6/11/15, clarifying appropriate documentation that can be used to verify a residential address |
| Exhibit-5 | Child Care Parent Notification Letter Notice of Denial or Closure – dated 6/12/15 |
| Exhibit-6 | WVDHHR Notice Eligibility Summary – dated 6/16/15 |
| Exhibit-7 | Appellant's Lease Renewal Addendum - dated 10/13/14 |
| Exhibit-8 | Child Care Resource Center correspondence/notice dated 6/26/15 |

- Exhibit-9 E-Mail correspondence between Heather Tallman and Child Care Program Specialist Denise Richmond for the period of 6/22/15 – 6/25/15
- Exhibit-10 Child Care Certificate issued on 6/28/15 (continued benefits during the appeal process)
- Exhibit-11 Child Care Subsidy Policy §§8.1, 6.2 and 5.1

Appellant's Exhibits:

- A-1 Undated correspondence/Appellant's written argument, Child Care Subsidy Policy §3.4.2, [REDACTED] 2014 W-2, Earnings Statement for [REDACTED] dated 4/10/15, and [REDACTED] West Virginia CDL license

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 an active recipient of subsidized Child Care benefits, and underwent a six (6)-month status check/review of eligibility in June 2015. Appellant reported (Exhibit-1) that her household consisted of herself and her two (2) children, and that her wages were the only source of household income.
- 2) Because Appellant has previously reported receiving direct child support payments from [REDACTED], the father of [REDACTED] Respondent's Child Care Specialist contacted the Bureau for Child Support Enforcement (BCSE) via Electronic Mail (E-Mail) on June 10, 2015 (Exhibit-2) to confirm there have been no changes in the amount of Appellant's child support payments. The BCSE representative notified Respondent that the child support order entered in 2011 was set at zero (\$0) per month because the parties reported being together. Respondent was further advised that the Appellant's case with BCSE was "inactive" because it was determined that [REDACTED] was included in the Appellant's benefits received through the West Virginia Department of Health and Human Resources (WVDHHR). Respondent's Child Care Specialist followed up with an E-Mail (Exhibit-3) on June 10, 2015, and was again advised that [REDACTED] was included in the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits received through the WVDHHR.
- 3) On June 12, 2015, Appellant was notified (Exhibit-5) that she was required to verify the residency/living arrangements of [REDACTED] by June 25, 2015, or her case would be closed effective that day. Pursuant to Exhibit-4, a utility bill or lease agreement would be required for verification. Respondent indicated that it received the Appellant's current lease agreement (Exhibit-7), however, this document did not satisfy verification requirements regarding [REDACTED] residence.

- 4) Respondent cited Exhibit D-6, an eligibility summary issued by the WVDHHR on June 16, 2015, notifying the Appellant that effective June 30, 2015, she was no longer eligible for SNAP benefits because the number of people receiving this benefit has decreased and income is more than the gross income limit. Respondent noted that this change in Appellant's SNAP benefits occurred when Appellant reported [REDACTED] was no longer in the home.
- 5) Respondent's Exhibit-8 includes a final notice sent to Appellant referencing a pre-hearing conference held on June 23, 2015, and indicates that verification requirements have not been met pursuant to policy (Exhibit-11). This document goes on to note that while Appellant is no longer eligible for Child Care benefits, her case will remain open pending the appeal process (Exhibit-10).
- 6) Appellant acknowledged that she added [REDACTED] to her SNAP benefits around February or March 2015 because he would occasionally spend the night on her couch to provide her assistance with her other child who suffers from Autism, but insisted that she contacted her case worker only a couple days later and requested that he be removed from her SNAP case. Appellant further explained that [REDACTED] lives with his grandmother and that his poor credit prevents him from getting utilities or a lease in his name. As a result, she was unable to verify that he was residing outside of her home.

APPLICABLE POLICY

Child Care Subsidy Policy & Procedures Manual §8.1 provides that the primary burden for the prevention of misrepresentation rests on the Child Care Resource and Referral (CCR&R) case manager. The case manager must make sure that the application, status check forms, and supporting verifications have been fully completed, properly signed, dated, and any conflicting or missing information brought to the attention of the client for clarification or completion. Reviewing the case record and verifications thoroughly prior to issuing a certificate to the client will aid the case manager in reducing errors and preventing misrepresentation. Although the client is the primary source of information and is fully responsible for it, the case manager should not hesitate to verify questionable or inconsistent information any time there is doubt about a client's situation. The signature page of the child care application and status check gives the worker the authority to investigate discrepancies and suspicions.

Child Care Subsidy Policy & Procedures Manual §5.1.7 address the family unit of unmarried parents, and states that although West Virginia does not recognize common law marriage, a couple living together as spouses will be considered members of the same family if they are both biological, adoptive, or foster parents of a child or children living in the household. However, if a couple resides together and each have a child of their own and share no children in common, they are two separate families and entered into FACTS as such.

Child Care Subsidy Policy & Procedures Manual §6.2.2 provides directives for adding a spouse or biological parent to the subsidized Child Care household, but requires additional verifications to demonstrate employment and/or activity eligibility, as well as income eligibility.

DISCUSSION

Pursuant to Child Care regulations found in §8.1, the CCR&R case manager not only has the authority, but also has the responsibility to review Child Care benefit status check forms and supporting verifications to reduce errors and prevent misrepresentation. Policy clearly states that the client is the primary source of information and fully responsible for it, however, the case manager should not hesitate to verify questionable or inconsistent information any time there is doubt about a client's situation. Specific to this case, the CCR&R case manager verified that Appellant was not receiving child support through the BCSE, but discovered that her child support case was coded "inactive" due to a zero (\$0) monthly child support order, and the fact that Appellant had reported Mr. [REDACTED] was living in her home when she added him to her SNAP benefit case. The Appellant's contention that Mr. [REDACTED] was only occasionally sleeping on her couch does not explain why she felt it necessary to add him to her SNAP benefits in February or March 2015. While it is unclear exactly when the Appellant reported to her SNAP case worker that Mr. [REDACTED] was not in the home, the evidence confirms that he was not removed from her SNAP Assistance Group until June 2015. In the absence of evidence to the contrary, the CCR&R case manager was unable to confirm Mr. [REDACTED] residence/living arrangement. Because the information received by the CCR&R's case manager clearly indicates that Mr. [REDACTED] was residing in the Appellant's home, and an eligibility determination could not be completed without the requested verifications – it is unknown if he was in an approved activity, engaged in employment, or if his employment income would cause the household to exceed the income eligibility guidelines - the CCR&R was correct to propose termination of the Appellant's subsidized Child Care benefits effective June 25, 2015.

CONCLUSIONS OF LAW

- 1) The CCR&R case manager must ensure that the application, status check forms, and supporting verifications have been fully completed, properly signed, dated, and any conflicting or missing information brought to the attention of the client for clarification or completion.
- 2) The client is the primary source of information and fully responsible for providing accurate and truthful information, however, the case manager should not hesitate to verify questionable or inconsistent information any time there is doubt about a client's situation.
- 3) Because the CCR&R found inconsistent/questionable information – Appellant reported Mr. [REDACTED] was residing in her home to her SNAP case worker – and the Appellant failed to provide verification by June 25, 2015, indicating otherwise, the CCR&R was correct to propose termination of Appellant's subsidized Child Care benefits.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Respondent's proposal to terminate Appellant's Child Care assistance benefits effective June 25, 2015.

ENTERED this ____Day of September 2015.

**Thomas E. Arnett
State Hearing Officer**