



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

July 22, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2417

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

cc: Kathryn Young, CCR&R Supervisor

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

██████████,

Action Number: 15-BOR-2417

Appellant,

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 July 21, 2015, on an appeal filed June 25, 2015.

The matter before the Hearing Officer arises from the June 26, 2015 decision by the Respondent to deny Appellant's application for child care services.

At the hearing, the Respondent appeared by Kathryn Young, Connect CCR&R Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Application for Child Care Services, dated June 11, 2015
- D-2 Notification of New Applicants, dated June 11, 2015
- D-3 Notification of New Applicants, dated June 15, 2015
- D-4 Electronic Mail (e-mail) correspondence from ██████████ to ██████████, dated June 15, 2015
- D-5 New Employment Verification form, dated June 15, 2015
- D-6 Child Care Parent Notification Letter, Notice of Denial or Closure, dated June 26, 2015
- D-7 Child Care Subsidy Policy §§2.2, 2.2.2, 5.0, 5.1, 5.2, 5.2.3, 5.2.4 and 5.4

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 completed an application for Child Day Care Services on June 11, 2015. (Exhibit D-1)
- 2) On the date of application the Department issued a Notification of New Applicants (DAY-0177) requiring the Appellant to provide verification of new employment using the New Employment Verification form on or before June 24, 2015. (Exhibit D-2)
- 3) At the time of application the Appellant was a recipient of WV WORKS cash assistance. Following a supervisory audit of the Appellant's application, it was discovered that the Department failed to request verification of the Appellant's WV WORKS benefits. A second Notification of New Applicants (DAY-0177) was issued to the Appellant on June 15, 2015, requesting verification of WV WORKS income. The verifications were due by June 24, 2015. (Exhibit D-3)
- 4) On June 17, 2015, the Department received the Appellant's New Employment Verification form. The form had been completed and signed by the Appellant's employer on June 15, 2015. (Exhibit D-5)
- 5) On June 25, 2015, the Appellant provided the Department with verification of her WV WORKS benefits.
- 6) On June 26, 2015, at 11:06 a.m., the Department issued a Notice of Denial (DAY-0179) notifying the Appellant that her June 11, 2015 application had been denied for failure to verify WV WORKS income. (Exhibit D-6)

APPLICABLE POLICY

Child Care Policy §2.1 outlines worker actions required in the interview process and includes that the interview must include a review of verifications supplied by the parent and those still needed to confirm eligibility.

Child Care Policy §2.2.1 indicates that verification of all employment, including WV WORKS participation must be verified. The worker is required to ask the applicants to provide this verification during the intake interview.

Child Care Policy §2.2.3 requires the worker to issue a Parent Notification Letter (DAY-0176) if the application cannot be completed due to the need for additional information and reads as follows:

If the application cannot be completed due to the need for additional information or documentation, the worker shall issue a Parent Notification Letter (DAY-0176) indicating that the application will be denied if the necessary information is not received in 13 days.

Child Care Policy §4.4 requires participants to provide verification of their WV WORKS benefits. The worker may also communicate directly with WV WORKS staff to obtain the necessary information.

Child Care Policy §8.1 indicates that that it is the responsibility of the Case Manager to ensure that the application and supporting verifications have been fully completed, properly signed and dated and any conflicting or missing information be brought to the attention of the client for clarification or completion.

DISCUSSION

On June 11, 2015, the Appellant completed an application for child care services. During her interview and on her application, she disclosed that she had obtained new employment and that she was a recipient of WV WORKS benefits in the amount of \$301 per month. Following the interview, the interviewing worker issued a written request for verification of the Appellant's new employment. The worker issued the verification request on form DAY-0177, instead of a DAY-0176*, as outlined in policy. The interviewing worker failed to request that the Appellant provide verification of her WV WORKS benefits.

Through a supervisory audit it was discovered that the interviewing worker had failed to request verification of the WV WORKS benefits and a second notification letter (DAY-0177 instead of DAY-0176*) was mailed to the Appellant on June 15, 2015, asking her to provide verification of her WV WORKS benefits within nine (9) days, by June 24, 2015. Policy indicates that the client notification requesting additional information for the completion of the application process (DAY-0176*) must provide thirteen (13) days for the applicant to submit requested verifications. The Appellant provided credible and unrefuted testimony that she provided the Department verification of the WV WORKS benefits on June 25, 2015, but was told that she was a day late and her application would be denied. On June 26, 2015, one day after the Appellant submitted the requested verification, the Department mailed notice that her application for child care services had been denied.

The Department's representative argued that the thirteen (13) day notice begins with the date of application, not the date of notice. However, policy does not indicate that the thirteen (13) days is counted from the date of application, it simply states that the notification letter (DAY-0176*) shall give thirteen (13) days. By giving the Appellant only nine (9) days to return verification of WV WORKS benefits, the Department failed to give the Appellant sufficient time to return the requested information.

*It should be noted that Child Care Policy §2.2.3 refers to both the Parent Notification Letter (§2.2.3.2) and the Child Care Certificate (§2.2.3.3.A) as DAY-0176.

CONCLUSION OF LAW

The Department erred in denying the Appellant's child care benefits. The June 15, 2015 notice issued to the Appellant required additional verification be submitted within nine (9) days of the notice instead of thirteen (13) days as required by policy. The Appellant provided the requested verification of WV WORKS benefits within ten (10) days of the date of notice.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Department's action to terminate the Appellant's Child Care service benefits.

ENTERED this ____ Day of July 2015.

Donna L. Toler
State Hearing Officer