



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

October 29, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-3181

Dear Mr. [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
State Hearing Officer
Member, State Board of Review

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

cc: [REDACTED]

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

██████████,

Appellant,

v.

Action Number: 15-BOR-3181

**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 27, 2015, on an appeal filed September 25, 2015.

The matter before the Hearing Officer arises from the September 14, 2015, decision by the Respondent to deny the Appellant's application for Child Care services.

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

Department's Exhibits:

- D-1 Paystub from ██████████ County Schools dated June 28, 2015
- D-1a Paystub from ██████████ County Schools dated June 30, 2015
- D-2 Notification of New Applicants dated August 27, 2015
- D-3 ██████████ Receptionist Log dated September 9, 2015-September 11, 2015
- D-4 ██████████ Client Information Received at Front Desk Log dated September 9, 2015-September 11, 2015
- D-5 Paystub from ██████████ County Schools dated August 31, 2015
- D-5a Pre-Hearing Request form dated September 9, 2015
- D-6 Child Care Parent Notification Letter Notice of Denial or Closure dated September 14, 2015

Appellant's Exhibits:

A-1 [REDACTED] Bank Statement dated September 23, 2015

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 applied for Child Care services on August 27, 2015, for a foster child placed in his care. The Respondent pended (D-2) the Appellant's application for verification of his wife's earned income. This information was to be returned by September 9, 2015.
- 2) The Appellant submitted a paystub (D-5) for his wife dated August 31, 2015, at the [REDACTED] local office on September 9, 2015.
- 3) The Respondent denied the Appellant's application on September 14, 2015, citing that the Appellant failed submit two (2) paystubs for his wife within forty-five (45) days of the date of the application.

APPLICABLE POLICY

Child Care Subsidy Policy Manual § 3.2.6 states that for a foster home who needs child care because the foster parents are participating in education or employment, services are available for children in the state's custody. The Child Care Resource and Referral (CCR&R) worker shall designate one of the foster parents as head of household, but exclude foster family income in determining eligibility. Foster parents must verify employment or attendance in an education or job training program.

Child Care Subsidy Policy Manual § 4.1 states income-eligible parents who are working in the private or public sector and who have children who need care are considered to need child care. Employment must be verified by the client submission of: One month's worth of check stubs, no older than 45 days, or The New Employment Verification Form (ECE-CC-1B) in the case of new employment situations in which the applicant has not yet received pay.

DISCUSSION

The Appellant's wife, [REDACTED], is an employee for the [REDACTED] County Board of Education. At the time of the application in August 2015, Ms. [REDACTED] had returned to work after the summer break. She is paid every 5th and 20th of the month, unless this date falls on a holiday or weekend at which time she is paid earlier.

The Appellant contended that the paystubs he submitted for his wife at application were August paystubs. The end of the fiscal year for the Board of Education is June 30, 2015, and as a result payroll accounts are settled at that time. The paystub dated June 28 was not direct-deposited into the Appellant's bank account (A-1) until August 5 and the June 30 paystub was not paid until August 20.

The Appellant submitted the next available paystub for Ms. [REDACTED] paystub dated August 31, to the Respondent by the due date of September 9, 2015. This paystub was not direct-deposited into the Appellant's bank account until September 4, 2015.

The Respondent contended that per policy, verification of earned income must be within 45 days of the date of the application and a full month's worth of income must be received to determine the need for Child Care services. The Appellant had the option of having the New Employment Verification Form completed to verify Ms. [REDACTED] earned income, but did not choose this option. The Respondent testified that on or about September 25, 2015, she spoke with a human resources representative from the Board of Education and verified that Ms. [REDACTED] June paystubs were not actually paid until August, but the application had already been denied at that point.

The Appellants were both working at the time of the August 27, 2015, application and therefore demonstrated the need for Child Care services. Subsequent to the denial of the Appellant's application, the Respondent verified that the income verification for Ms. [REDACTED] that was submitted at application was her income that was received in August and therefore within the allowable time frame as dictated by policy. Although this clarification was not received until after the initial denial, the Appellants provided the Respondent with the necessary verifications as required by policy to determine eligibility for Child Care services.

CONCLUSION OF LAW

Whereas the Appellant provided the Respondent with the required verification of earned income within the allowable time limit, his application for Child Care services was denied incorrectly.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Respondent's denial of the Appellant's application for Child Care services.

ENTERED this 28th day of October 2015

**Kristi Logan
State Hearing Officer**