



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
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Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

February 13, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1014

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,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

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

cc: [REDACTED], [REDACTED]

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

██████████,

Action Number: 17-BOR-1014

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 February 7, 2017, on an appeal filed December 30, 2016.

The matter before the Hearing Officer arises from the November 1, 2016 decision by the Respondent to terminate the Appellant's Child Care services.

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

Department's Exhibits:

- D-1 Child Care Subsidy Policy § 6.1.2.1
- D-2 Child Care Parent Notification of Redetermination, dated October 15, 2016
- D-3 Copy of temporary vehicle registration for ██████████, issued September 30, 2014
- D-4 Status Review form, completed April 2016
- D-5 Child Care Subsidy Policy § 6.1.2.2
- D-6 Provider Notification Letter- Parent's Eligibility for Child Care, dated October 15, 2016
- D-7 Child Care Subsidy Policy § 6.1.2.4
- D-8 Child Care Parent Notification Letter Notice of Denial or Closure, dated November 1, 2016

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 is a recipient of Child Care services.
- 2) On October 15, 2016, the Department notified the Appellant that she needed to complete and return a Status Review form by October 15, 2016, or her Child Care case would close on October 31, 2016. (D-2)
- 3) On October 15, 2016, a Provider Notification Letter was sent to the Appellant's Child Care provider advising the Appellant was ineligible for Child Care services effective October 31, 2016. (D-6)
- 4) On November 1, 2016, the Appellant was notified that her Child Care case closed effective October 31, 2016, because she failed to complete a review. (D-8)
- 5) All notices were sent to the correct address for the Appellant.
- 6) [REDACTED] ([REDACTED]) must send a status check to the client 30 days before the certificate expires.
- 7) The Status Review form shall be mailed no later than the first day of the month, with the due date the 15th day of the month and a closure date 13 days later, or the last day of the month.

APPLICABLE POLICY

Child Care Policy §6.1 indicates the financial eligibility of each family receiving Child Care services must undergo a status check periodically.

Child Care Policy §2.3.4.12 explains that a certificate is reviewed by completing a status check two (2) weeks before the current certificate expires. CCR&R will send a status check to the client by mail 30 days before the certificate expires.

Child Care Policy §6.1.2.1 mandates when a status check is due, the Notification of Redetermination and Status Review form will be mailed to the parent. The Status Review form

shall be mailed no later than the first day of the month, with the due date the 15th day of the month and closure date 13 days later.

DISCUSSION

On November 1, 2016, [REDACTED] ([REDACTED]) notified the Appellant that her Child Care case was closed, because she did not complete and return a Status Review form that was due on October 15, 2016. The Appellant requested a fair hearing, because she stated [REDACTED] closed her case in error.

Child Care policy indicates that all Child Care applicants and participants must complete periodic status checks. A Status Review form shall be mailed no later than the first day of the month, with the due date the 15th day of the month. The case cannot be closed until 13 days later or on the last day of the month.

The Appellant testified that she did not receive a Notification of Redetermination or a Status Review form from [REDACTED]. She stated she also never received a closure letter. She added that she was unaware her Child Care case had closed until her provider notified her that [REDACTED] denied payment for Child Care services. She verified that [REDACTED] had her correct mailing address.

The Department's representative, [REDACTED], stated [REDACTED] used the same address for the Appellant that was used at the last status check on April 2016. Mr. [REDACTED] testified that the October 2016 Status Review form was mailed to the Appellant on October 1, 2016, however the date on the Child Care Parent Notification of Redetermination is October 15, 2016.

Evidence provided at the hearings indicates the Appellant was not given adequate notice. The redetermination notice is dated October 15, 2016, which is the same date the Status Review form was to be returned to [REDACTED]. There is nothing on the letter to indicate it was sent on the first day of the month as required by policy.

CONCLUSION OF LAW

Because the Department did not provide adequate notice to the Appellant, it was incorrect in its decision to close her Child Care case effective October 31, 2016.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Department's action to close the Appellant's Child Care case effective October 31, 2016, and deny payment for Child Care services.

ENTERED this 13th Day of February 2017.

**Natasha Jemerison
State Hearing Officer**