



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

April 20, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1473

Dear [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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Melissa Harvey, WV DHHR, CCRC

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

[REDACTED]
Appellant,

v.

Action Number: 17-BOR-1473

**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 [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WV DHHR) Common Chapters Manual. This fair hearing convened on April 18, 2017, on an appeal filed March 17, 2017.

The matter before the Board of Review arises from the decision by the Respondent to terminate Child Care subsidy benefits.

At the hearing, the Respondent appeared by Melissa Harvey, Director, Child Care Resource Center (CCRC). The Appellant appeared *pro se*. The witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Child Care Provider Services Agreement signed and dated September 9, 2016
- D-2 Spring 2017 Schedule of Classes submitted to the Respondent in December 2016
- D-3 Child Care Certificate, issue date January 5, 2017
- D-4 Form ECE-CC-1E for redetermination of eligibility, dated February 2, 2017
- D-5 Child Care Certificate, issue date February 7, 2017
- D-6 Verification of class attendance: Social Welfare Institutions, Intro to Substance Abuse, and Abnormal Psych
- D-7 Child Care Parent Notification Letter Notice of Denial or Closure (DAY-0179), dated March 7, 2017
- D-8 Provider Notification Letter – Parent's Eligibility for Child Care (DAY-0613), dated March 7, 2017

- D-9 Child Care Subsidy Policy (CCSP) Section 3.6 (excerpt)
- D-10 Child Care Subsidy Policy (CCSP) Section 6.6 (excerpt)
- D-11 Provider Notification Letter – Parent’s Eligibility for Child Care (DAY-0613), dated March 20, 2017

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 Subsidy services.
- 2) The Appellant signed a Child Care Parent Services Agreement (Agreement) on September 9, 2016. (Exhibit D-1)
- 3) At the time of the Agreement, the Appellant was enrolled in post-secondary educational classes totaling 12 credit hours, and was working at [REDACTED] 15 – 20 hours a week.
- 4) The Appellant quit employment after entering the Agreement, without notification to the Respondent.
- 5) On December 22, 2016, the Appellant submitted post-secondary undergraduate educational class enrollment of 12 credit hours for the 2017 Spring semester. (Exhibit D-2)
- 6) Based on the submitted schedule of 12 credit hours for the 2017 Spring semester, the Respondent issued a new Child Care Certificate on January 5, 2017. (Exhibit D-3)
- 7) The Appellant underwent a status check for redetermination of eligibility in February 2017, and submitted her redetermination form showing she was currently attending only three (3) post-secondary undergraduate educational classes totaling 9 credit hours. (Exhibit D-4)
- 8) Due to agency error, on February 7, 2017, a Child Care Certificate was reissued to the Appellant. (Exhibit D-5)
- 9) The Appellant’s case was audited in March. She submitted verification of her current post-secondary undergraduate educational class enrollment of 9 credit hours. (Exhibit D-6)
- 10) On March 7, 2017, the Respondent notified the Appellant that she must provide verification of another qualifying activity for Child Care services or those services would be closed effective March 20, 2017. (Exhibit D-7)

- 11) The Appellant did not provide verification of another qualifying activity.
- 12) The Respondent terminated the Appellant's Child Care services, effective March 20, 2017. (Exhibits D-11).

APPLICABLE POLICY

CCSP Manual §3.0, Family Eligibility, instructs that in order to be eligible for child care services, the family must verify the identity of the head of household, meet WV residency requirements, income requirements, and activity requirements. A child must meet age and WV residency requirements, need child care for a portion of the day, and reside with the head of household applying for services.

CCSP §4.0 requires applicants to demonstrate a need for care. In general, that means that the head of household must be involved in a qualifying activity that prevents the parent from providing care and supervision of the children in the household during the time the parent is participating in the activity.

CCSP Manual §3.6, Minimum Qualifying Activity Participation Hour Requirement, explains that Recipients enrolled in post-secondary educational activities must meet the minimum credit hour requirement in order to be eligible for services as follows, in part,

§3.6.4.1. Undergraduate Students:

A. Fall/Spring –

- 1) A minimum of 12 credit hours, or
- 2) A minimum of 6 credit hours, plus at least 15 hours of employment, job training or additional WV Works activities.

B. Each Summer Session –

- 1) A minimum of 6 credit hours, or
- 2) A minimum of 3 credit hours, plus at least 15 hours of employment, job training or additional WV Works activities.

DISCUSSION

The Respondent terminated the Appellant's child care services based on the failure to participate in a qualifying activity. The Respondent must show, by a preponderance of the evidence, that this eligibility requirement was not met by the Appellant.

The evidence and testimony in this case clearly shows the Respondent met the burden necessary to affirm its decision. The Appellant was enrolled in post-secondary undergraduate educational activity as her qualifying activity. The Appellant's post-secondary undergraduate educational classes for the 2017 Spring semester totaled only 9 credit hours, even though she had originally registered for the qualifying 12 semester hours. She was no longer working. She was not

involved in any job training or additional WV WORKS activities. The Appellant failed to participate in a qualifying activity or combination of activities for program eligibility.

The Respondent acted correctly to terminate the Appellant's Child Care services based on the Appellant's failure to participate in a qualifying activity.

CONCLUSION OF LAW

- 1) Policy requires that recipients enrolled in post-secondary educational activities must meet the minimum credit hour requirement in order to be eligible for services.
- 2) For post-secondary undergraduate students, policy requires for the Fall/Spring semester program benefits, a minimum of 12 post-secondary undergraduate credit hours or a minimum of 6 credit hours plus at least 15 hours of employment, job training or additional WV WORKS activities for program eligibility.
- 3) The Appellant is enrolled in 9 credit hours of post-secondary undergraduate educational classes for the 2017 spring semester.
- 4) Because the Appellant is not meeting the post-secondary education undergraduate requirements for in order to qualify as an activity for Child Care services, the Respondent must terminate those services.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to terminate the Appellant's Child Care services.

ENTERED this 20th day of April 2017.

Lori Woodward, State Hearing Officer