



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

June 29, 2017



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1586

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Lela Pemberton, Department Representative

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

██████████,

**Appellant,**

v.

**Action Number: 17-BOR-1586**

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on May 16, 2017, on an appeal filed March 31, 2017.

The matter before the Hearing Officer arises from the March 13, 2017 decision by the Respondent to terminate the Appellant's Child Care services.

At the hearing, the Respondent appeared by Lela Pemberton and James Steele. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 New Employment Verification form, signed February 15, 2017
- D-2 Child Care Subsidy Policy, §4.1.1.2
- D-3 Child Care Parent Notification Letter, dated February 27, 2017
- D-4 Provider Notification Letter, dated February 27, 2017
- D-5 Child Care Parent Notification Letter, dated March 13, 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 was a recipient of Child Care services.
- 2) The Respondent notified the Appellant on February 27, 2017 (Exhibit D-3) that due to the onset of new employment, she “must submit one month’s pay stubs” before March 12, 2017, or her Child Care case would be closed.
- 3) The information requested to determine eligibility was a “NEVF (New Employment Verification Form) completed by employer.” (Exhibit D-2)
- 4) The Appellant did not provide the required income verification by the set deadline.
- 5) The Respondent notified the Appellant on March 13, 2017 (Exhibit D-5) that her Child Care case was closed because she “failed to provide verification of pay stubs for Probill as required.”

### **APPLICABLE POLICY**

Child Care Policy requires applicants to demonstrate a need for care. (Child Care Subsidy Policy, §4.0)

Child Care Policy requires applicants whose need for care is based on employment to verify that employment. (Child Care Subsidy Policy, §4.1.1)

Child Care Policy allows this verification in the form of “one month’s worth of check stubs, no older than 45 days,” (Child Care Subsidy Policy, §4.1.1.1) or with a “New Employment Verification Form (ECE-CC-1B) in the case of new employment situations in which the applicant has not yet received pay,” followed up by “one month’s worth of check stubs to the agency as soon as they are received.” (Child Care Subsidy Policy, §4.1.1.2)

### **DISCUSSION**

The Respondent terminated the Appellant’s Child Care services based on her failure to verify income. 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 reported the onset of new employment. Child Care policy requires this initial verification to be followed up with pay stubs from the employer. The Respondent requested this information and provided a deadline. The Appellant did not provide the information by the deadline and the Respondent closed her Child Care case. The Appellant offered unconvincing testimony that she did not receive the mail from the Respondent.

The Respondent acted correctly to terminate the Appellant's Child Care services based on the Appellant's failure to verify information required by policy.

### **CONCLUSION OF LAW**

Because the Appellant did not verify the necessary information to determine child care eligibility, the Respondent must terminate her Child Care services.

### **DECISION**

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

**ENTERED this \_\_\_\_ Day of June 2017.**

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**Todd Thornton**  
**State Hearing Officer**