



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

May 11, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO: 17-BOR-1638

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,

Pamela L. Hinzman
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**

██████████,

Appellant,

v.

Action Numbers: 17-BOR- 1638

**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 May 3, 2017, on an appeal filed April 12, 2017.

The matter before the Hearing Officer arises from the April 5, 2017 decision by the Respondent to deny Child Care benefits.

At the hearing, the Respondent appeared by ██████████, Director, ██████████, ██████████, and ██████████, Supervisor, ██████████. Appearing as a witness for the Respondent was Denise Richmond, Child Care Program Specialist, WVDHHR. The Appellant appeared pro se. Appearing as a witness for the Appellant was ██████████, Appellant's husband. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Child Care Parent Services Agreement signed on March 22, 2017
- D-2 Application for Child Care Services signed on March 17, 2017
- D-3 Notification of New Applicants dated March 22, 2017
- D-4 Application for An Authenticated/Apostilled Copy- ██████████ Birth Record
- D-5 Child Care Parent Notification Letter Notice of Denial or Closure dated April 5, 2017
- D-6 Hearing Request
- D-7 West Virginia Child Care Subsidy Policy & Procedures Manual Section 3.3
- D-8 West Virginia Child Care Subsidy Policy & Procedures Manual Appendix E

Appellant's Exhibits:

A-1 WVDHHR Foster Care Policy Section 5.9

A-2 West Virginia Child Care Subsidy Policy & Procedures Manual Section 3.2.6

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 benefits for her foster child in March 2017 (see Exhibits D-1 and D-2).
- 2) The Respondent notified the Appellant on March 22, 2017 (D-3) that she must provide a birth certificate for the foster child to verify citizenship. The letter states that failure to submit the verification by April 4, 2017 would result in denial of Child Care benefits.
- 3) The Respondent provided verification that the foster child's case worker had applied for a copy of the child's birth certificate from the state of [REDACTED] on March 22, 2017.
- 4) The Respondent contended that Child Care benefits were denied because the application for a copy of the birth certificate was not acceptable verification for Child Care purposes.
- 5) A Child Care Parent Notification Letter Notice of Denial or Closure was sent to the Appellant on April 5, 2017 (D-5).
- 6) As a result of the application denial, the Appellant owes the Child Care provider \$379 for care provided to the foster child for the period of March 22, 2017 to April 18, 2017. The foster child is no longer residing in her home; however, the Appellant indicated that – to her knowledge - WVDHHR has not yet received the child's birth certificate despite paying a fee for expedited service (see Exhibit D-4). The Appellant and her husband maintained that they should not be required to pay privately for the foster child's Child Care services, as the child was in state's custody and the state was required to provide the care.

APPLICABLE POLICY

West Virginia Child Care Subsidy Policy & Procedures Manual Section 3.3 (D-7) states that a child must be a U.S. citizen or "qualified alien" as defined by the Immigration and Nationality Act to qualify for Child Care services. Acceptable proofs of citizenship include documentation that proves a U.S. place of birth or other citizenship verification.

West Virginia Child Care Subsidy Policy & Procedures Manual Appendix E (D-8) provides detailed information concerning methods of establishing citizenship for Child Care eligibility.

West Virginia DHHR Foster Care Policy Section 5.9 (A-1) states that Child Care services are available for children in state's custody when the foster/adoptive or kinship/relative providers are employed or participating in an educational program. All child care arrangements must be coordinated through the Child Care Resource and Referral (R&R) agency that covers the county in which the foster/adoptive or kinship/relative provider resides. The R&R staff will request the child's worker forward a copy of the child's birth certificate to them within 90 days of their request. Section 5.11 of the policy states that the child's foster care worker will be responsible for arranging for payments of benefits that are due the child to be directed to the Department to cover expenses incurred in providing care. The child's worker will also be responsible for coordination of payments to providers and other vendors.

West Virginia Child Care Subsidy Policy & Procedures Manual Section 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, providing the foster parents do not own assets in excess of \$1,000,000.

West Virginia State Code §49-2-101. Authorization and responsibility: (a) The Department of Health and Human Resources is authorized to provide care, support and protective services for children who are handicapped by dependency, neglect, single parent status, mental or physical disability, or who for other reasons are in need of public service. The department is also authorized to accept children for care from their parent or parents, guardian, custodian or relatives and to accept the custody of children committed to its care by courts. The Department of Health and Human Resources or any county office of the department is also authorized to accept temporary custody of children for care from any law enforcement officer in an emergency situation.

West Virginia State Code §49-2-106. Department responsibility for foster care homes: It is the responsibility of the Department of Health and Human Resources to provide care for neglected children who are committed to its care for custody or guardianship. The department may provide this care for children in family homes meeting required standards of certification established and enforced by the Department of Health and Human Resources.

DISCUSSION

Child Care Policy states that Child Care services are available for children in state's custody when the foster/adoptive or kinship/relative providers are employed or participating in an educational program. All child care arrangements must be coordinated through the Child Care Resource and Referral (R&R) agency that covers the county in which the foster/adoptive or kinship/relative provider resides. The R&R staff will request the child's worker forward a copy of the child's birth certificate to them within 90 days of their request.

The R&R worker requested that the Appellant provide a birth certificate for her foster child on March 22, 2017, and indicated that Child Care benefits would be denied if the information was not provided by April 4, 2017. The child's foster care worker requested a birth certificate from the state of [REDACTED] on March 22, 2017, and the certificate was not received by the R&R agency by

the 13-day deadline allotted to the Appellant. As the foster care worker – per Child Care Policy - had 90 days to provide the birth certificate, Child Care services were incorrectly denied.

In addition - as per State Code - it is the responsibility of the Department of Health and Human Resources to provide care for children in its custody or guardianship. Therefore, the Department is ultimately responsible for ensuring that Child Care services (if needed) are provided and funded through available resources despite the occurrence of unforeseen circumstances.

CONCLUSION OF LAW

The Respondent's action to deny Child Care services based on failure to provide requested verification cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to REVERSE the Respondent's decision to deny Child Care benefits.

ENTERED this 11th Day of May 2017.

Pamela L. Hinzman
State Hearing Officer