



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 3, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-3200

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,

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**

[REDACTED],

**Action Number: 16-BOR-3200**

**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 [REDACTED]. 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 1, 2017, on an appeal filed December 19, 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 [REDACTED], [REDACTED], [REDACTED]. Appearing as a witness for the Department was [REDACTED], [REDACTED]. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Status Review Form, received October 13, 2016
- D-2 Paystubs for [REDACTED], dated August 16, 2016 and August 31, 2016
- D-3 Paystubs for [REDACTED], dated August 5, 2016, August 22, 2016, and September 7, 2016
- D-4 Paystubs for [REDACTED], dated November 30, 2015, December 16, 2015, and December 31, 2015
- D-5 Child Care Subsidy Policy § 4.1.1
- D-6 Child Care Subsidy Policy § 1.2.31
- D-7 Child Care Subsidy Policy § 3.2.6.2

- D-8 Child Care Parent Notification Letter Notice of Denial or Closure, dated October 14, 2016
- D-9 Provider Notification Letter- Parent's Eligibility for Child Care, dated October 15, 2016
- D-10 Child Care Subsidy Policy § 6.1.2.4
- D-11 Child Care Parent Notification Letter Notice of Denial or Closure, dated November 1, 2016
- D-12 Email sent from [REDACTED] to [REDACTED] on November 10, 2016, with attached paystubs for [REDACTED], dated October 7, 2016, October 21, 2016, and November 7, 2016, and paystubs for [REDACTED] dated, October 31, 2016 and November 15, 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) To be eligible for Child Care services, families must demonstrate a need for care and be involved in a qualifying activity.
- 3) Although income is excluded for foster parents, they must verify employment or attendance in an education or job training program. (D-7)
- 4) Employment must be verified by one month's worth of paystubs no older than 45 days or the New Employment Verification form if the applicant was recently hired. (D-5)
- 5) On October 13, 2016, the Department received a Status Review form from the Appellant. (D-1)
- 6) The Appellant provided copies of his paystubs dated August 16, 2016 and August 31, 2016. (D-2)
- 7) The Appellant provided copies of his wife's paystubs dated November 30, 2015, December 16, 2015, December 31, 2015, August 5, 2016, August 22, 2016, and September 7, 2016. (D-3 and D-4)
- 8) On October 14, 2016, the Department sent the Appellant notification that additional paystubs under 45 days old for the Appellant and his wife were required by October 31, 2016, or his Child Care case would close. (D-8)

- 9) On November 1, 2016, the Appellant was notified his Child Care case closed effective October 31, 2016, because he failed to provide the additional paystubs. The notice also informed him he could reapply in person at [REDACTED]. (D-11)
- 10) On November 10, 2016, the Appellant emailed the additional paystubs to the Department. No action was taken, because the case was closed. (D-12)

### **APPLICABLE POLICY**

Child Care Policy §4.0 mandates to be eligible for child care assistance, families must demonstrate a need for care. In general, that means the parents must be involved in a qualifying activity that prevents them from providing care and supervision of the children in the household.

Child Care Policy §4.1 explains that employment must be verified by the client submission of one month's worth of paystubs no older than 45 days or the New Employment Verification form if the applicant has not yet received pay.

Child Care Provider Policy §3.2.6.2 indicates that foster family income is excluded when determining eligibility. Foster parents must verify employment or attendance in an education or job training program.

### **DISCUSSION**

On October 31, 2016, [REDACTED] ([REDACTED]) notified the Appellant that his Child Care case was closed, because he did not provide paystubs that were requested on October 14, 2016. The Appellant requested a fair hearing, because he stated he turned in the paystubs and [REDACTED] should have reopened his case.

Child Care policy indicates that all Child Care applicants and participants, including foster parents, must demonstrate a need for care by being involved in a qualifying activity. Employment is an example of a qualifying activity. Employment must be verified by one month's worth of paystubs which cannot be older than 45 days when received by [REDACTED].

The Appellant provided several paystubs for himself and his wife when he completed a Status Review form. The Department received the form on October 13, 2016. One paystub for the Appellant dated August 31, 2016, and one paystub for the Appellant's wife dated September 7, 2016, were less than 45 days old. The remaining paystubs were older than 45 days and could not be used. On October 14, 2016, the Department notified the Appellant that he needed to submit an additional paystub for himself and his wife that was less than 45 days old by October 31, 2016, or his case would close. The Appellant did not provide the additional paystubs until November 10, 2016, which was after he received notification that his case had closed on October 31, 2016.

The Appellant testified that he received the notices from the Department, but he stated he thought providing the additional paystubs would be enough to open his case. He stated the Department did not call or respond to his email to let him know that his case would remain closed. He stated his case has been reopened, but he feels the Department should pay for Child Care services received while his case was closed. He stated he is a foster parent, so the Department should cover those costs.

The Department's representative, [REDACTED], stated that [REDACTED] does try to respond to all calls and emails, and added that the notification letter sent to the Appellant on November 1, 2016, was clear in stating the Appellant's case was closed and he would have to reapply at [REDACTED]. He also stated that even though income is excluded for foster families, they must still follow the policy and verify employment.

Testimony and evidence provided indicates the Appellant was properly notified of the requirements and also the action taken on his case. The Department was correct in its decision to close the Appellant's Child Care case and deny payment of Child Care fees while the case was closed.

### **CONCLUSION OF LAW**

Because the Appellant did not provide one month's worth of paystubs, less than 45 days old for the household by October 31, 2016, the Department was correct in its decision to close the Child Care case and deny payment of Child Care fees while the case remained closed.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's action to close the Appellant's Child Care case and deny payment for Child Care services.

**ENTERED this 3<sup>rd</sup> Day of February 2017.**

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**Natasha Jemerison  
State Hearing Officer**