



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL**

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Cabinet Secretary**

**Board of Review  
State Capitol Complex  
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**Jolynn Marra  
Interim Inspector General**

August 9, 2019



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 19-BOR-1723

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: Kristall Chambers, DHHR

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

██████████,

**Appellant,**

**v.**

**Action Number: 19-BOR-1723**

**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 June 4, 2019, on an appeal filed May 14, 2019.

The matter before the Hearing Officer arises from the May 9, 2019 decision by the Respondent to deny the Appellant's application for Child Care services.

At the hearing, the Respondent appeared by Kristall Chambers. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**EXHIBITS**

**Department's Exhibits:**

- |     |   |
|-----|---|
| D-1 | Notification of New Applicants, dated April 23, 2019  |
| D-2 | New Employment Verification (form), received May 6, 2019  |
| D-3 | Income verification for the Appellant from ██████████<br>Pay dates: April 12, 2019 – May 10, 2019 |
| D-4 | Notice of decision, dated May 9, 2019   |
| D-5 | Hearing Request form, dated May 13, 2019  |

**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 applied for Child Care services on April 23, 2019.
- 2) On April 23, 2019, the Respondent advised (Exhibit D-1) the Appellant of additional information needed to complete her application for Child Care services, including a completed New Employment Verification form.
- 3) The Appellant returned the completed New Employment Verification form on May 6, 2019. (Exhibit D-2)
- 4) The Appellant's employer verified (Exhibit D-2) a hire date of April 3, 2019 and anticipated the Appellant would be working between 20 and 30 hours per week.
- 5) The Appellant's employer also verified actual hours worked by the Appellant totaling 71.25 hours over five (5) weeks of employment, or an average of 14.25 hours per week. (Exhibit D-3)
- 6) By notice (Exhibit D-4) on or about May 9, 2019, the Respondent advised the Appellant, "You are not eligible for child care services because: Our records indicate that you are not working at least 20 hours per week."

### **APPLICABLE POLICY**

Child Care policy reads, "To be eligible for child care assistance, families must 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." (Child Care Subsidy Policy, §4.0)

Child Care policy sets the following condition for approval of Self-Employment Activity: "Parents must participate in self-employment activity a minimum of 20 hours per week and show an income of at least minimum wage per hour. If both parents are self-employed, jointly or separately, the minimum work hour/minimum wage requirement applied to each." (Child Care Subsidy Policy, §4.3.6.2)

Child Care policy additionally sets a minimum amount of qualifying activity participation in private sector employment, and reads, "Any recipient of child care assistance who is an employee in the private sector must work at least 20 hours per week. If the recipient is not

working at least 20 hours per week, the recipient will not be eligible for child care services.” (Child Care Subsidy Policy, §3.6.1)

Child Care policy allows verification of employment in two forms: “One month’s worth of check stubs, no older than 45 days...” (Child Care Subsidy Policy, §4.1.1.1) or “The New Employment Verification Form (ECE-CC-1B) in the case of new employment situations in which the applicant has not yet received pay: Clients using the ECE-CC-1B to verify employment must submit one month’s worth of check stubs to the agency as soon as they are received. Failure to supply follow up check stubs will result in case closure.” (Child Care Subsidy Policy, §4.1.1.2)

### **DISCUSSION**

The Respondent denied the Appellant’s application for Child Care services based on an unmet qualifying activity requirement. The Respondent must show by a preponderance of the evidence that the Appellant did not meet the qualifying activity requirement.

Testimony and evidence clearly show the Appellant did not meet the required number of hours for working recipients of Child Care services. The Appellant used a form to verify employment for new employment. When this form was returned on May 6, 2019, it established a date of hire (April 3, 2019 – Exhibit D-2) that required the Appellant to use actual pay because she had received one month’s worth of check stubs at that point. The employer is asked to provide anticipated hours before there is one month’s worth of check stubs, but once the Appellant had one month’s worth of check stubs the actual hours worked must be used. The Appellant’s check stubs verify she worked 14.25 hours per week – an insufficient amount to meet the qualifying activity requirement of 20 hours per week. Based on the unmet policy requirement for a qualifying activity, the Respondent was correct to deny the Appellant’s application for Child Care services.

### **CONCLUSION OF LAW**

Because the Appellant did not meet the qualifying activity minimum requirements set by Child Care policy, the Respondent must deny the Appellant’s application for Child Care services.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny the Appellant’s application for Child Care services.

**ENTERED this \_\_\_\_ Day of August 2019.**

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