



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

**Bill J. Crouch
Cabinet Secretary**

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

October 3, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 19-BOR-1997

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: Ashley McDougal, DHHR / Sharon Varney, DHHR

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

██████████,

Appellant,

v.

Action Number: 19-BOR-1997

**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 August 27, 2019, on an appeal filed July 8, 2019.

The matter before the Hearing Officer arises from the June 24, 2019 decision by the Respondent to deny the Appellant's application for Child Care services.

At the hearing, the Respondent appeared by Ashley McDougal. Appearing as a witness for the Respondent was Sharon Varney. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|--|
| D-1 | Application for Child Care Services, signed June 10, 2019
Child Care Parent Services Agreement, signed June 10, 2019
Consent for Release of Information, signed June 10, 2019
Guidelines for Using Child Care, signed June 10, 2019 |
| D-2 | Identification submitted with Child Care application |
| D-3 | Child Care Subsidy Policy, §4.3 (excerpt) |
| D-4 | Screen print of online data query, retrieved July 19, 2019
West Virginia Secretary of State – Online Data Services |

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 June 10, 2019. (Exhibit D-1)
- 2) The Respondent advised the Appellant of additional information needed to complete her application for Child Care services, including verification of her household employment income.
- 3) The Appellant did not provide the requested verification.
- 4) By notice (Exhibit D-5) on or about June 24, 2019, the Respondent advised the Appellant, "Your application for child care has been denied because: You failed to provide proper verification. I did not receive pay stubs for you or [REDACTED]"

APPLICABLE POLICY

Child Care policy specifies verifications that will be requested during the intake interview for services. (§2.2.1) The list of verifications includes "All income, including child support, if received," (§2.2.1.3) and "Employment, school, training, WV Works participation for each parent in the home and/r [sic] other need for child care services." (§2.2.1.4)

Child Care policy reads, "If the application cannot be completed due to the need for additional information or documentation, the worker shall issue a Parent Notification Letter (DAY-0176) indicating that the application will be denied if the necessary information is not received within 13 days." (§2.2.3.2)

Child Care policy reads, "For a foster home who need child care **because the foster parents are participating in education or employment**, services are available for children in the custody of the State of West Virginia, providing that the foster parents do not own assets in excess of \$1,000,000." (§3.2.6, emphasis added)

Child Care policy reads, “The CCR&R worker shall designate one of the foster parents as head of household but exclude foster family income in determining eligibility. Foster parents **must verify employment or attendance in an education or job training program.**” (§3.2.6.3, emphasis added)

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. If there are two parents in the home, both must be involved in a qualifying activity. **It is possible for a parent to meet all other eligibility requirements, but not demonstrate a need for care.**” (§4.0, emphasis added)

Child Care policy lists both “Employment in the Private or Public Sector” (§4.1) and “Self-Employment” (§4.3) as potentially eligible categories of qualifying activities. However, both require verifications (§4.1.1 and §4.3.6) to demonstrate a need for care and meet self-employment criteria for eligibility.

DISCUSSION

The Respondent denied the Appellant’s application for Child Care services based on the failure to provide necessary verifications. The Respondent must show by a preponderance of the evidence that the Appellant did not provide the verifications required to determine eligibility for Child Care services.

The Appellant applied for Child Care services and was advised that additional verifications were necessary to determine eligibility. The Respondent failed to provide a notice – a Parent Notification Letter (DAY-0176) – specifying the verifications requested, but there was no dispute from the Appellant that pay stubs were requested as verification.

Testimony indicated the Appellant was unable to provide the verifications requested because they were pay stubs and the Appellant’s husband does not receive pay stubs. The Appellant argued that the verifications were not necessary based on a mistaken belief that children in foster care are automatically eligible for Child Care services. Policy provides for the treatment of a foster care child as a separate family, with financial eligibility based solely on the foster child’s income (§3.2.6.2), but financial eligibility is not the only component of Child Care eligibility.

Policy requires foster parents to verify employment or attendance in an education or job training program (§3.2.6.3). Income verifications serve a dual purpose: to determine the financial eligibility of the household and to demonstrate the family has a need for care, as required by policy (§4.0). The Appellant clearly did not provide the verifications necessary to determine Child Care eligibility and the Respondent was correct to deny the Appellant’s application on this basis.

The parties addressed issues stemming from this verification request that were not considered. When the Appellant was advised of the verifications needed, she explained she would be unable to comply because her husband does not receive pay stubs and is self-employed. It is unclear if this discussion resulted in a change to the initial verification request or in a new verification request, since the Respondent did not provide any “DAY-0176” form as evidence in the hearing. However, the issues related to the self-employment status of the Appellant’s husband were not the basis of the Respondent’s decision and without a noticed action or decision tied to those issues they are not ripe for appeal. The sole issue under consideration – the Respondent’s denial of the Appellant’s application for required verifications not provided – is correct.

CONCLUSION OF LAW

Because the Appellant did not provide verifications necessary to determine her eligibility for Child Care services, 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 October 2019.

Todd Thornton
State Hearing Officer