



**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**

January 23, 2019



RE: [REDACTED] v. WV DHHR
ACTION NO.: 18-BOR-2681

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

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2681

**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 December 6, 2018, on an appeal filed October 26, 2018.

The matter before the Hearing Officer arises from the September 4, 2018 decision by the Respondent to terminate the Appellant's Child Care services for failure to complete a review of eligibility.

At the hearing, the Respondent appeared by Ashley McDougal and Lorie Wallace. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|---|
| D-1 | Client Contact Report
Entry dated October 25, 2018 |
| D-2 | Guidelines for Using Child Care (forms)
Dates signed: February 22, 2017 and October 26, 2018 |
| D-3 | Change of Information Notification (form)
Date signed: November 17, 2017 |

- | | |
|-----|--|
| D-4 | Provider Notification Letter – Parent’s Eligibility for Child Care
Notice date: August 16, 2018 |
| D-5 | Child Care Subsidy Policy (excerpt)
§2.3.4.11 |
| D-6 | Child Care Subsidy Policy (excerpt)
§2.3.4.11.A |
| D-7 | Child Care Subsidy Policy (excerpt)
§2.3.4.12 |
| D-8 | Child Care Parent Notification of Redetermination
Notice date: July 26, 2018 |

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) By notice dated July 26, 2018, the Respondent advised the Appellant, “It is necessary to redetermine your eligibility for child care services,” and that a completed form and any necessary verifications must be returned to the Respondent by the deadline of August 15, 2018, or “your child care services will be closed on 08/31/2018.” (Exhibit D-8)
- 3) The Appellant did not complete or return the required review form.
- 4) The Respondent closed the Appellant’s child care services.
- 5) The Appellant contended she did not receive the review notice because her address changed.
- 6) The Appellant did not report the change of address to the Respondent.

APPLICABLE POLICY

Child Care policy reads, “The financial eligibility of each family receiving child care services shall undergo a status check periodically.” (Child Care Subsidy Policy, §6.1.1)

Child Care policy regarding the time frames for status checks reads, “The status check form shall be mailed no later than the first day of the month, with the due date the 15th day of the month and closure date 13 days later or the last day of the month.” (Child Care Subsidy Policy, §6.1.2.1)

Child Care policy notes that it is the responsibility of the child care recipient to report “changes in circumstances,” including household address, “within five days.” (Child Care Subsidy Policy, §2.3.4.11, §2.3.4.11.A)

DISCUSSION

The Respondent terminated the Child Care services of the Appellant due to an incomplete review of eligibility. The Respondent must show by a preponderance of the evidence that the Appellant failed to complete her required review of eligibility.

The Appellant did not dispute she failed to complete her review. The Appellant testified that the reason she did not complete and return her review documents is because her address changed, and she did not receive the documents. Child Care policy clearly places the responsibility for reporting address changes with the recipient. The Respondent presented evidence that the Appellant was aware of this requirement (Exhibit D-2) and had complied with it (Exhibit D-3) in the past.

The Respondent issued a notice regarding the status check that complied with the policy time frames (Exhibit D-8) and the Appellant did not comply with the deadline set on that notice. The Respondent acted correctly in terminating the child care services of the Appellant for failure to complete a required review of eligibility.

CONCLUSION OF LAW

Because the Appellant did not complete a required review of child care eligibility, the Respondent was correct to terminate the Appellant’s 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 based on failure to complete a review of eligibility.

ENTERED this ____ Day of January 2019.

Todd Thornton
State Hearing Officer