



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of the Inspector General  
Board of Review**

**Sherri A. Young, DO, MBA, FAAFP  
Interim Cabinet Secretary**

**Sheila Lee  
Interim Inspector General**

July 20, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-1996

Dear [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: Jennifer Lewis, Choices Child Care R&R

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

████████████████████,

**Appellant,**

v.

**Action Number: 23-BOR-1996**

**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 July 12, 2023.

The matter before the Hearing Officer arises from the June 6, 2023, decision by the Respondent to deny Child Care benefits.

At the hearing, the Respondent appeared by Jennifer Lewis, Assistant Director, Choices Child Care Resource and Referral. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 West Virginia Child Care Policy Sections 2.4.3, 2.4.3.1, 3.6.1, 4.1.1.1, 4.3.5.1, 4.3.6, 4.3.6.2, 4.3.6.3, and 4.3.6.4
- D-2 Notification of New Applicants
- D-3 Appellant's pay stubs
- D-4 Appellant's real estate income information
- D-5 Child Care Parent Notification Letter Notice of Denial or Closure dated June 8, 2023
- D-6 Client Contact Report

**Appellant's Exhibits:**

- A-1 New Employment Verification (increase of hours) Form dated June 23, 2023
- A-2 Appellant's June 15, 2023, pay stub and time punch information
- A-3 Appellant's June 29 2023, pay stub

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 on May 24, 2023.
- 2) The Appellant was issued notification on May 24, 2023, requesting that she provide a full month of pay stubs not less than 45 days old to the Respondent by June 6, 2023 (Exhibit D-2).
- 3) On May 24, 2023, the intake worker documented that the Appellant had a "varied schedule" at [REDACTED] (Exhibit D-6).
- 4) On June 6, 2023, the Appellant provided pay stubs for April 20, 2023, May 4, 2023, and May 18, 2023 (Exhibit D-3).
- 5) The pay stubs showed average weekly work hours of 18.87, 14.51, and 18.07, respectively (Exhibit D-3).
- 6) The Appellant reported within the application period (May 24, 2023, to June 6, 2023) that she would start working an additional six to eight hours per week at [REDACTED] since she did not have to pick up her children from school.
- 7) The Appellant also works as a real estate agent for [REDACTED] and submitted a ledger on June 6, 2023, for March 2023, April 2023, and May 2023. The ledger showed income for March and April 2023, but listed zero income for May 2023 (Exhibit D-4).
- 8) The Appellant was asked to submit her 2022 income taxes and West Virginia business registration by the end of the day on June 6, 2023, so that the Respondent could further review whether she met criteria to receive Child Care benefits based on self-employment (Exhibit D-6).
- 9) The additional self-employment information requested by the Respondent was not submitted by June 6, 2023.

- 10) The Appellant was issued a Child Care Parent Notification Letter Notice of Denial or Closure on June 6, 2023, indicating that her application for Child Care was denied because she was not working 20 hours per week at [REDACTED] (Exhibit D-5).
- 11) The Appellant subsequently reapplied for Child Care benefits in June 2023 and met hourly work requirements.
- 12) The Appellant was approved for Child Care benefits effective June 28, 2023.
- 13) The Appellant was provided with a New Employment Verification form (which can be used to verify increased work hours) to address her additional hours at [REDACTED] for the subsequent application. The form indicated that the Appellant began working 20 to 28 hours per week on June 4, 2023 (Exhibit A-1).
- 14) The Appellant's June 29, 2023, pay stub, which covers the period of June 9, 2023- June 22, 2023, shows a total of 43.53 hours for the two-week period (Exhibit A-3).
- 15) The Appellant is seeking approval for Child Care services for the period of May 24, 2023, through June 27, 2023.

### **APPLICABLE POLICY**

Child Care Policy and Procedures Manual Chapter 3.6.1 states that any recipient of Child Care assistance who is an employee in the private or public sector must work at least 20 hours per week. If the recipient is not working at least 20 hours per week, the recipient will be ineligible for Child Care services (Exhibit D-1).

Child Care Policy and Procedures Manual Chapter 5.2.1.2 addresses methods of income verification for Child Care services:

Employment income must be verified by the client by submitting one of the following:

- A. One month's worth of check stubs, OR
- B. The New Employment Verification Form (ECE-CC-1B) in the case of new employment situations in which the applicant has not yet received pay.
  1. 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.
  2. Failure to supply follow up check stubs will result in case closure.

### **DISCUSSION**

Policy states that recipients of Child Care assistance who are employed in the private or public sector must work at least 20 hours per week to qualify for benefits. A New Employment Verification Form can be used in the case of new employment situations in which the applicant has not yet received pay.

The Appellant testified that she advised the worker who took her May 24, 2023, application that she would be working an additional six to eight hours per week at [REDACTED] because she would not have to pick up her children from school. She requested an “increase of hours” form during the application period so that her employer could verify her additional work hours. However, the Appellant claimed she was told by the worker that the form did not apply to her. The Appellant contended that she had been given an “increase of hours” form to submit in the past while receiving Child Care benefits. The Appellant asserted that an “increase of hours” form was issued to her during her subsequent Child Care application in June 2023 after the worker spoke with a supervisor and learned that the Employment Verification Form could also be used to verify work hour increases. The form was completed by the Appellant’s employer and returned to the Respondent. On the form, the employer verified that the Appellant’s work hours at [REDACTED] increased on June 4, 2023. The employer noted on the form that the Appellant was expected to work 20 to 28 hours per week.

The Respondent’s representative testified that the Appellant’s May 24, 2023, application was denied because she had not been working an average of 20 hours per week at [REDACTED] and had reported zero income from her real estate job for May 2023. In addition, the Respondent required business information about [REDACTED] so that a self-employment eligibility determination could be made.

At the time of her May 24, 2023, Child Care application, the Appellant was aware that her work hours would increase in June 2023. She provided credible testimony that she requested an “increase in hours” form during the May 24, 2023- June 6, 2023, application period so that she could verify this information. She stated that she had utilized the form to verify hours in the past. The workers who interacted with the Appellant were not present to testify during the hearing, and Case Comments recorded on the date of application reveal that the intake worker was aware that the Appellant worked a varied schedule. It is unclear why the Appellant was not given a statement to take to her employer to verify increased hours during the application process. When the Appellant was issued the “increase of hours” form in conjunction with her subsequent Child Care application, the employer verified that the Appellant began working 20 to 28 hours per week on June 4, 2023 (before her May 24, 2023, application was denied).

The Respondent’s representative testified that income is evaluated on a case-by-case basis depending on information communicated to the case workers. She indicated that she could not definitively attest to information provided to workers by the Appellant.

The Appellant was not afforded an opportunity to verify her projected work hours prior to the June 6, 2023, application denial. As she was working 20 to 28 hours per week starting June 4, 2023, the Respondent’s decision to deny Child Care benefits cannot be affirmed. Because the Appellant’s work at [REDACTED] met the 20-hour per week work requirement, the issue of self-employment requirements is moot and will not be addressed.

### **CONCLUSIONS OF LAW**

- 1) Child Care applicants who are employed in the private or public sector must work at least 20 hours per week to qualify for services.
- 2) The Respondent denied the Appellant's May 24, 2023, Child Care application on June 6, 2023, based on failure to meet work hour requirements.
- 3) The Appellant requested an "increase of hours" form between May 24, 2023, and June 6, 2023, so that her employer could verify that she would be working additional hours.
- 4) The Respondent failed to provide the "increase of hours" form to the Appellant prior to the June 6, 2023, application denial.
- 5) The Appellant was issued the "increase of hours" form to verify work hours during a subsequent Child Care application in June 2023.
- 6) The Appellant's work hours increased to 20-28 hours per week as of June 4, 2023.
- 7) As the Appellant was working at least 20 hours per week at [REDACTED] prior to her application denial on June 6, 2023, the Respondent's decision to deny Child Care benefits based on insufficient work hours cannot be affirmed.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to deny the Appellant's May 24, 2023, application for Child Care benefits.

**ENTERED this 20th day of July 2023.**

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**Pamela L. Hinzman**  
**State Hearing Officer**