



**STATE OF WEST VIRGINIA
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

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

**Ann Vincent-Urling
Interim Inspector General**

February 23, 2024

[REDACTED]

Re: [REDACTED] v WV DoHS
ACTION NO.: 24-BOR-1060

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 Human Services. 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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Chelsea Hunt, WV DoHS, Bureau for Family Assistance

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

IN THE MATTER OF:

[REDACTED]

Appellant,

v.

ACTION NO.: 24-BOR-1060

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES BUREAU FOR FAMILY
ASSISTANCE,**

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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on February 08, 2024, on an appeal filed January 03, 2024.

The matter before the Hearing Officer arises from the determination by the Respondent to deny the Appellant's application for Child Care Program (CCP) benefits.

At the hearing, the Respondent appeared by Chelsea Hunt, Subsidy Supervisor, Connect Child Care Resource & Referral (CCR&R). The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia (WV) Department of Human Services (DoHS) Application for Child Care Services, dated December 05, 2023
- D-2 WV DoHS Notification of New Application, dated December 05, 2023
- D-3 Copy of [REDACTED] Employment Income for [REDACTED], dated November 17, 2023; Copy of [REDACTED] Employment Income for [REDACTED], dated November 30, 2023; Copy of [REDACTED] Employment Income for [REDACTED], dated November 17, 2023; Copy of [REDACTED] Employment Income for [REDACTED], dated December 01, 2023; and [REDACTED] Employment Letter for [REDACTED], dated December 06, 2023
- D-4 WV DoHS Child Care Subsidy Policy §§ 3.6 through 3.6.4.1
- D-5 Client Contact Report, dated December 07, 2023 through January 03, 2024

- D-6 [REDACTED] Employment Schedule for [REDACTED], dated December 10 through December 23, 2023
- D-7 Electronic Mail (E-mail) correspondence, dated December 18, 2023
- D-8 WV DoHS Child Care Parent Notification Letter Notice of Denial or Closure, dated December 21, 2023
- D-9 Repeat of D-5: Client Contact Report, dated December 07, 2023 through January 03, 2024

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) To be eligible for Child Care Program (CCP) benefits, families must demonstrate a need for care by participating in a qualifying activity or meet eligibility criteria for a policy exception. (Exhibits D-3, and D-5 through D-9)
- 2) The Appellant submitted an application for CCP benefits on December 05, 2023. (Exhibit D-1)
- 3) Subsequent to the December 05, 2023 application, the Respondent issued a notice requesting verification of full time employment for both the Appellant [REDACTED], the Appellant's spouse. The notice further advised the requested information must be received by December 18, 2023, or the Appellant's CCP benefits application would be denied. (Exhibit D-2)
- 4) On December 07, 2023, the Appellant submitted copies of [REDACTED] employment income for herself, dated November 17 and November 30, 2023, a letter from her employer stating she [the Appellant] "works an average of 25 hours a week," and copies of [REDACTED] employment income, dated November 17 and December 01, 2023. (Exhibits D-3, and D-5 through D-9)
- 5) The Appellant's income verifications determined she works an average of 19.16 hours per week, falling short of the twenty (20) or more hours per week policy requirement. (Exhibit D-3)
- 6) On or around December 18, 2023, the Appellant's case manager requested a policy exception for the Appellant's hourly work week shortage through the Division of Early Care and Education (ECE) in hopes to obtain an approval for eligibility. (Exhibits D-5 and D-9)
- 7) Because the Appellant was not working the twenty (20) or more hours per week per policy, on the same date, the Respondent's ECE denied the case manager's policy

exception request. (Exhibits D-5 and D-9)

8) On December 21, 2023, the Respondent issued a notice advising the Appellant of the denial of CCP benefits due to the Appellant's failure to work an average of twenty (20) or more hours per week as established by the policy. (Exhibit D-8)

9) The Appellant disagreed with the Respondent's decision, and on January 03, 2024, requested a fair hearing. (Exhibits D-5 and D-9)

APPLICABLE POLICY

West Virginia Child Care Subsidy Policy & Procedures Manual (WVCCSPP) § 3.5 provides, in part:

Applicants receiving child care assistance in order to work must earn wages that comply with applicable federal and WV state laws. Child care funds cannot be used to support employment with employers who do not comply with the Fair Labor Standards Act and West Virginia Division of Labor Wage and Hour laws.

WVCCSPP § 3.2.3 provides, in part:

If both parents, or a parent and step-parent are in the home, child care services cannot be approved for work or training related needs unless both are participating in a qualifying activity, such as working or attending school/training.

WVCCSPP § 3.6.1 provides, in part:

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 not be eligible for child care services.

WVCCSPP § 4.0 provides, in part:

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.

WVCCSPP § 4.1 - 4.1.1.2 provides, in part:

Income-eligible parents who are working in the private or public sector (not self-employment) and who have children who need care are considered to need child care.

Employment must be verified by the client submission of:

One month's worth of check stubs, not older than 45 days, 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.

WVCCSPP § 5.2.1.2 provides, in part:

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.

WVCCSPP § 5.4 provides, in part:

The methods acceptable for verifying most eligibility criteria can be found in the following chart. The working applicant/recipient must receive a non-subsidized wage or salary, either from an employer or through self-employment, to meet the definition of working.

Item to Be Verified	Method of Verification
INCOME <ul style="list-style-type: none">a. wagesb. salaryc. incentive paymentsd. bonuses	1 months' worth of Check stubs ECE-CC-1B until the first regular pay period; then must verify through check stub. Tax records

DISCUSSION

The Appellant submitted an application for CCP benefits on December 05, 2023. Subsequent to the December 05, 2023 application, the Respondent issued a notice requesting verification of full time employment for both the Appellant [REDACTED] the Appellant's spouse. The notice further advised that the requested information must be received by December 18, 2023, or the Appellant's CCP benefits application would be denied. On December 07, 2023, the Appellant submitted copies of [REDACTED] employment income for herself, dated November 17

and November 30, 2023, a letter from her employer stating that she [the Appellant] “works an average of 25 hours a week,” and copies of [REDACTED] employment income, dated November 17 and December 01, 2023. Because the submitted income verification reflected the Appellant works an average of 19.16 hours per week, falling short of the required twenty (20) or more hours established by policy, the Appellant’s case manager requested a policy exception through the Division of Early Care and Education in hopes to obtain an approval for eligibility. However, because Appellant was not working an average of twenty (20) or more per week, the Respondent’s ECE denied the case manager’s policy exception request, and on December 21, 2023, issued a notice advising the Appellant of the denial of CCP benefits due to not meeting the average twenty (20) or more hour work week as established by the policy.

The Respondent bears the burden of proof and had to prove by a preponderance of evidence that the Appellant was ineligible for CCP benefits due to not meeting the policy requirement of working full time/an average of twenty (20) or more hours per week in order to demonstrate a need for care. At the time of the hearing, the Respondent testified that because full time employment could not be verified through income earned from her employer - via paystub - the Appellant did not meet the policy definition of working full time in order to establish a need for care. The Respondent further testified that per policy, an individual must provide verification through the submission of one month’s worth of check stubs, not older than 45 days, in order to substantiate the need for care. The Appellant did not contest the Respondent’s 19.16 hours per week average calculation. However, she argued that because her family has experienced multiple illnesses during the same time frame the Respondent requested the employment verification, her submitted paystubs fell short to document that she worked an average of twenty (20) or more hours per week, as required by policy.

Policy stipulates that to be eligible for child care assistance, families must demonstrate a need for care. In general, that means that the head(s) 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. Income-eligible parents who are working full time and who have children who need care, are considered to need child care. A working applicant/recipient must [emphasis added] work an average of twenty (20) or more hours per week, to meet the definition of working full time. The full time employment must [emphasis added] be verified by the client with the submission of one month’s worth of check stubs, not older than 45 days, or, in the case of new employment situations in which the applicant has not yet received pay, by the submission of ‘New Employment Verification Form’ (ECE-CC-1B). Therefore, it is the finding of this Hearing Officer that the Respondent acted correctly to deny the Appellant’s application for CCP benefits due to not meeting the average twenty (20) or more hour work week as established by the policy.

CONCLUSIONS OF LAW

1) Pursuant to policy, an individual must participate in a qualifying activity or be eligible for a policy exemption in order to be eligible for subsidized CCP benefits. A working applicant/recipient must work an average of twenty (20) or more hours per week, to meet the definition of working full time.

2) The Appellant’s employment verifications during the month of November 2023 did not

certify she met the policy definition of participating in a qualifying activity/working full time in order to receive CCP benefits.

3) Because the Appellant was not considered participating in a qualifying activity/working full time in order to receive CCP benefits, the Respondent's action to deny the Appellant's CCP benefit application was correct.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's Child Care Program benefits application.

ENTERED this 23rd day of February 2024.

Angela D. Signore
State Hearing Officer