



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**1027 N. Randolph Ave.**  
**Elkins, WV 26241**

**Bill J. Crouch**  
Cabinet Secretary

**M. Katherine Lawson**  
Inspector General

February 28, 2018



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 18-BOR-1142

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Robert Meade, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 18-BOR-1142**

**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 February 15, 2018, on an appeal filed January 25, 2018.

The matter before the Hearing Officer arises from the January 26, 2018 decision by the Respondent to terminate benefits under the WV WORKS and Medicaid Programs. At the hearing, the Respondent appeared by Robert Meade, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Respondent's Exhibits:**

- D-1 Notice of Decision dated January 26, 2018
- D-2 West Virginia Income Maintenance Manual Chapter 1.5.2.A
- D-3 Case Summary, Case Benefit Summary and Case Comments
- D-4 WV WORKS Caretaker Relative Option form signed by Appellant on February 2, 2017
- D-5 Electronic mail transmission dated December 21, 2017 from ██████████ to ██████████  
██████████

**Appellant's Exhibits:**

- A-1 Petition for Order to Show Cause Why Respondent Should be Held in Contempt, Family Court of ██████████ County, West Virginia, entered on October 17, 2017
- A-2 Letter from ██████████ dated February 10, 2018
- A-3 Letter from ██████████ (undated)
- A-4 Information from Division of Motor Vehicles (undated)
- A-5 Order Granting Appointment of Guardian entered on August 14, 2015

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 WV WORKS benefits for her granddaughter and was considered a caretaker relative in the case (D-4).
- 2) The Respondent's Economic Services Unit received information from the Bureau of Child Support Enforcement in December 2017 indicating that the child's absent parent, [REDACTED], called to report that she was residing in the home with the Appellant and the child (D-5).
- 3) As a result of the report, the Respondent terminated WV WORKS and Medicaid benefits for the child.
- 4) The hearing record remained open through February 16, 2018 to allow for the submission of guardianship verification (A-5).
- 5) Medicaid benefits were subsequently reinstated for the child and the hearing request concerning Medicaid was withdrawn by the Appellant.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 3.4.1.A states that all minor, dependent, blood-related, and adoptive siblings who live in the same household with a specified relative must be included in the WV WORKS Assistance Group. In addition, the parent(s) of the child is/are included when the parent lives with the child.

### **DISCUSSION**

Policy states that all minor, dependent, blood-related, and adoptive siblings who live in the same household with a specified relative must be included in the WV WORKS Assistance Group. In addition, the parent(s) of the child is/are included when the parent lives with the child.

The Appellant provided credible testimony to indicate that her daughter does not reside in her household and had reported incorrect information to the Bureau of Child Support Enforcement to avoid paying child support. She stated that her daughter sometimes visits the child at her home, but does not reside there. The Appellant provided Exhibit A-1, a family court petition filed by BCSE in October 2017 requesting that the Appellant's daughter be held in contempt for failing to fulfill her child support obligation. The Appellant also provided letters from her son (A-3) and a friend (A-2) concerning the living situation. Both stated that the Appellant's daughter has not resided in the Appellant's home for four years. Exhibit A-4 reveals that the Appellant's daughter

changed the mailing address on her driver's license to [REDACTED] in [REDACTED] but the Appellant stated that her daughter also does not reside at the driver's license address as that address belongs to her ex-husband. The Appellant testified that her daughter was homeless and had been residing between the residences of her boyfriend, her brother and a friend in [REDACTED] at the time the report was made to BCSE.

The Respondent terminated the Appellant's WV WORKS benefits based on the report of the Appellant's daughter; however, the Appellant's daughter was not present at the hearing to provide testimony. As the Appellant's daughter had received information that she would be charged with contempt for failing to pay her child support obligation, the Appellant's assertion that the report was made for the purpose of avoiding support payments is credible. The Appellant also provided letters from two individuals with knowledge of her household circumstances. Both letters indicate that the Appellant's daughter has not resided in the household for four years.

Evidence provided by the Respondent fails to verify that the Appellant's daughter resides/resided in her home.

### **CONCLUSIONS OF LAW**

Based on information provided during the hearing, the Respondent's decision to terminate WV WORKS benefits cannot be affirmed.

### **DECISION**

It is the decision of the State Hearing Officer to REVERSE the Respondent's action to terminate WV WORKS benefits.

**ENTERED this 28th Day of February 2018.**

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**Pamela L. Hinzman  
State Hearing Officer**

