



June 26, 2025

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 25-BOR-1943

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

cc: Ashley McDougal, Department Representative
Ronda Dowdy, Department Representative

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

[REDACTED],

Appellant,

v.

Action Number: 25-BOR-1943

**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 June 12, 2025, upon a timely appeal filed on May 2, 2025.

The matter before the Hearing Officer arises from the May 2, 2025 decision by the Respondent to terminate Child Care services.

At the hearing, the Respondent appeared by Ashley McDougal. Appearing as a witness for the Respondent was Ronda Dowdy. The Appellant was self-represented. Appearing as a witness for the Appellant was [REDACTED]. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of redetermination, dated March 19, 2025
- D-2 Change of Information Notification form, dated April 1, 2025
- D-3 Notice to the Appellant, dated April 8, 2025
Notice to the Appellant's provider, dated April 7, 2025
Notice to the Appellant's second provider, dated April 7, 2025
- D-4 Note from [REDACTED], dated March 28, 2025

D-5 Signed note from [REDACTED], dated March 28, 2025
Utility bill
Email messages, dated April 16, 2025, and April 17, 2025

D-6 Notice to the Appellant's provider, dated April 17, 2025

D-7 Redetermination form (illegible signature page)
Note from the Appellant's employer
Email, dated April 24, 2025

D-8 Paystubs from the Appellant's employer
Email, dated April 25, 2025

D-9 Statement from the Appellant
Screenshots of phone images (illegible)

D-10 Notice of decision, dated May 2, 2025

Appellant's Exhibits:

A-1 Email, dated June 4, 2025
Statement from the Appellant
Screenshot of phone image
Statement from the Appellant, dated June 4, 2025
Email, dated June 4, 2025
Screenshot of phone image

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) The Respondent issued a notice dated March 19, 2025 (Exhibit D-1), advising the Appellant in part, "It is necessary to re-determine your eligibility for child care services. The enclosed form must be completed and returned to me by April 15, 2025. Be sure to return all needed verifications with the form. If returned by the above date, you will continue to be eligible until notified otherwise. If the form and all verifications are not returned by the above date, your child care services will be closed on April 30, 2025."
- 3) The Appellant reported a change of address on April 1, 2025. (Exhibit D-2)

- 4) The Appellant provided the necessary verifications (Exhibits D-4 and D-5) in conjunction with her reported address change.
- 5) The Respondent mailed a notice to one of the Appellant's providers (Exhibit D-6), titled "Provider Notification Letter – Parent's Eligibility for Child Care."
- 6) This notice (Exhibit D-6) reads, "Section 1. [sic] has been found eligible for a child care certificate to cover the costs of Child Care," and noted beginning service eligibility dates for the Appellant's two children as May 1, 2024, and May 1, 2025, respectively.
- 7) This notice (Exhibit D-6) also reads, "Section 3 [REDACTED] [sic] has been found ineligible effective 04/30/2025 for a child care certificate..."
- 8) The Respondent mailed a notice dated May 2, 2025 (Exhibit D-10) to the Appellant advising her "The last date for which the Bureau for Children and Families will be responsible for your Child Care Payment is 04/30/2025...", which was two days before the date of the notice.
- 9) The notice (Exhibit D-10) indicated the reason for termination of Child Care services was because the Appellant was "not working 20 hours per week..."
- 10) The Appellant provided a statement from her employer. (Exhibit D-7)
- 11) This statement (Exhibit D-7) is only partly visible and does not clearly define the Appellant's work hours per week.
- 12) The Appellant provided five (5) weekly paystubs from her employer, beginning with a "pay end date" of March 23, 2025, and ending with a "pay end date" of April 20, 2025. (Exhibit D-8)
- 13) The Appellant's paystubs (Exhibit D-8) document her weekly hours worked as follows: 9.69 hours, 8.44 hours, 3.20 hours, 6.67 hours, and 8.96 hours.
- 14) The Appellant did not meet the 20-hour-per-week requirement based on the average of the weekly hours worked shown on her employment verification. (Exhibit D-8)
- 15) The Appellant did not meet the 20-hour-per-week requirement in any one-week period of her employment verification. (Exhibit D-8)

APPLICABLE POLICY

The Child Care Subsidy Policy and Procedures Manual, Chapter 4, addresses the need for child care services. At §4.0, this policy reads, in pertinent part:

4.0. Need for Child Care 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...

The Child Care Subsidy Policy and Procedures Manual, Chapter 3, addresses family eligibility. At §3.6 and §3.6.1, this policy reads, in pertinent part:

3.6. Minimum Qualifying Activity Participation Hour Requirement

3.6.1. Working Recipients: 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...

The Child Care Subsidy Policy and Procedures Manual, Chapter 6, at §6.1.2 and §6.1.2.1 details the requirement for periodic reviews of child care eligibility, or “status checks,” as follows, in pertinent part:

6.1.2. Procedures for Completion of Status Checks The CCR&R case manager shall review their FACTS Ticklers monthly for a listing of cases due for status checks.

6.1.2.1. Status Check Time Frames When a status check is due, the DAY-0612, Notification of Redetermination, and the Status Review (ECE-CC-1E) form will be mailed to the parent. The family will be asked to complete and return the form. 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...

The Child Care Subsidy Policy and Procedures Manual, Chapter 4, at §4.7, §4.7.2, and §4.7.2.1, addresses requests for policy exceptions related to medical issues as follows (emphasis added):

4.7. Exceptions to Eligibility: Policy Exceptions Policy exceptions shall be reviewed by the CCR&R supervisor for approval and then forwarded to the Division of Early Care and Education via FACTS. (See Chapter 6, Section 5, Exception to Eligibility Policy for further exception requirements)...

4.7.2. Illness: In certain extraordinary situations child care may be approved for children under the age of six years in the following circumstances: a family member's release from hospitalization; a recent determination of a temporary or permanent disability of a parent; physician ordered bed rest during pregnancy; medical treatment for a terminal illness. Exceptions are granted in order to give the

family time to prepare and plan for coping with the illness and the effects of treatment and finding alternate child care arrangements/assistance.

4.7.2.1 Hospitalization, Surgery, and Post Hospitalization/Surgery Recovery For currently active cases, child care may be provided when a family member is hospitalized, requires in or out-patient surgery, and/or released from the hospital. In cases of hospitalization/surgery recovery (for hospital admissions exceeding 48 continuous hours), **documentation shall include, but not be limited to:**

- A. A discharge plan and diagnosis and a treatment plan if one is developed to follow up the discharge plan.
- B. The anticipated length of time for recovery.
- C. The documentation shall be related to the parent's illness or the illness of a sibling for which hospitalization was required.
- D. The approval period is limited to six weeks. If a longer recovery period is indicated by the physician in which minimal care and supervision of a child cannot be provided, the approval may be for a period not to exceed six months.
- E. Post hospitalization/surgery recovery approvals will be considered only for an active child care case and will not be considered for a new application or intake.

DISCUSSION

The Appellant requested a hearing to appeal the decision of the Respondent to terminate her Child Care services due to an unmet work requirement. The Respondent must prove by a preponderance of the evidence that it correctly terminated the Appellant's services on this basis.

The Appellant was a recipient of Child Care services. She is a parent of four (4) children and was receiving services for two (2) of her children. The Appellant was required to complete a review of her ongoing eligibility for Child Care services. The Respondent properly notified the Appellant (Exhibit D-1) of this requirement. The Appellant reported an address change, which was ultimately verified. However, after resolving the address issue, the Appellant was still required to complete her eligibility review.

When the Appellant provided verification of her employment, one of the Respondent's purposes in gathering the information is to determine if the household meets a policy requirement to establish a need for services. The Appellant needed to demonstrate that she was meeting a policy requirement for her to work 20 hours per week. The Appellant was working weekly and provided five (5) consecutive weekly paystubs. The average of the hours shown on the paystubs (9.69, 8.44, 3.2, 6.67, and 8.96 produce a total of 36.96 hours, or an average of 7.392 hours) does not meet the work requirement threshold. None of the individual weeks meet this threshold.

The parties did not dispute the hours shown or that the policy requirement was not met. The Appellant contended that her last-minute request for a policy exception consideration was not

heard. The Appellant contended that she would have met the work requirement if she had known policy that she believed the worker should have explained to her. The Board of Review is unable to grant policy exceptions but can interpret a policy provision that allows for internal policy exceptions.

The Respondent makes its Child Care policy publicly available. Respondent workers may answer policy questions but are not expected to guide the actions of applicants or recipients of services. The policy for internal reviews of exceptions describes its intent as being to help individuals “to prepare and plan” for illnesses, not to establish good cause for unmet requirements after the fact. The policy also outlines a series of documentations required for consideration of such a request. The Appellant claimed that a Respondent worker denied her request for a last-minute policy exception, but the Appellant is the person who was aware of her medical issues as they occurred and did not make an earlier request with supporting documentation. Policy requires this documentation, so if the Respondent worker had forwarded a request without documentation, it would have been denied.

Based on the reliable evidence and testimony at the hearing, the Respondent correctly determined the Appellant ineligible for Child Care services due to not meeting the policy requirement to work 20 hours per week.

CONCLUSIONS OF LAW

- 1) Because the Appellant was not working 20 hours per week, she did not meet the Child Care services policy requirement for weekly work hours.
- 2) Because the Appellant did not submit a policy exception request with supporting documentation, the Respondent may not waive the policy requirement for weekly work hours.
- 3) Because the Appellant did not meet Child Care eligibility requirements, the Respondent must terminate her Child Care services.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to terminate the Appellant’s Child Care services due to unmet work requirements.

ENTERED this _____ day of June 2025.

Todd Thornton
State Hearing Officer