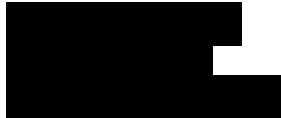




February 19, 2026



RE: [REDACTED] v. DoHS/BFA
ACTION NO.: 26-BOR-1122

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Jessica Sumpter/Randy Brown, MountainHeart CCR&R

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

[REDACTED],

Appellant,

v.

Action Number: 26-BOR-1122

**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 11, 2026.

The matter before the Hearing Officer arises from the January 15, 2026, decision by the Respondent to terminate the Appellant's Child Care services.

At the hearing, the Respondent appeared by Jessica Sumpter, Case Manager with MountainHeart Child Care Resource and Referral (CCR&R). Appearing as a witness for the Respondent Randy Brown, Supervisor with MountainHeart CCR&R. The Appellant was self-represented. The witnesses were placed under oath, and the following documents were admitted into evidence.

Department's Exhibits:

None

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 received Child Care services for her two children, ages three and four years old.
- 2) The Appellant submitted an eligibility review form to the Respondent on January 6, 2026.
- 3) The Appellant reported the onset of Temporary Total Disability Workers Compensation.
- 4) The Respondent requested the Appellant's medical records and a statement from her physician to determine if she qualified for a medical exemption from participating in a work activity.
- 5) The Respondent sent the requested medical documentation to the Division of Early Care and Education for the medical exemption determination.
- 6) On January 15, 2026, the Respondent sent a notice to the Appellant advising that "You are no longer eligible for Child Care services because: you have reported there is not a need for Child Care services due to being out of work due to an injury. Your case is closed. The last date the Bureau for Children and Families will be responsible for you Child Care payment is 1/14/2026".

APPLICABLE POLICY

Child Care Subsidy Policy Chapter 4 explains the determination for the need for Child Care:

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. If there are two parents in the home, both must be involved in a qualifying activity. It is possible for a parent to meet all other eligibility requirements but not demonstrate a need for care. For example, if the household consists of a single father and his two school age children, and he only participates in his qualifying activity during the times the children are in school, the family does not demonstrate a need for care.

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 PATH. (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.

4.7.2.2 Recent Determination of Temporary or Permanent Disability. A disability exception approval will not exceed 6 months. This category of policy exception is for one time only per Child Care case or same family. The exception is granted in order to give the family time to prepare and plan for coping with the disability and finding alternate Child Care arrangements/assistance in cases of newly determined temporary or permanent disability of the parent, the documentation shall include, but not be limited to:

- A. An official disability determination by a state or federal agency with a determination date that is within three (3) months of the Child Care application or redetermination.
- B. A treatment plan and the medical statement by a licensed physician which describes how this condition prevents the care of children.
- C. A disability exception approval will not exceed 6 months.

4.7.2.3 Bed Rest during Pregnancy. If a physician orders bed rest during pregnancy, the approval period will not exceed the date of delivery, nor can the approval be for 24-hour care.

4.7.2.4. Medical Treatment for a Terminal Illness. Exceptions may be approved for a terminally ill patient undergoing treatment without a previous hospitalization, provided there is a physician's statement describing the medical condition and that the condition and/or treatment prevents the care and supervision of children. The approval period will not exceed 6 months. This category of policy exception is for one time only per Child Care case or family. Child Care may be approved if the illness or condition prevents the parent(s) from providing minimal care and supervision of the child(ren). A signed and

dated medical statement from a licensed physician must describe how the medical condition prevents care for the child(ren). 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.

Child Care Subsidy Policy Chapter 6 explains case maintenance procedures:

6.5.2 Illness. In unusual, extraordinary circumstances, exceptions to eligibility policy can be requested. Exceptions will be granted on an individual basis and only in situations where the circumstances of the client are so different from the norm that the policy is unfair or inappropriate when applied to the individual client. Consideration is given to factors such as the age of the child, the child's ability for self-care, the amount of supervision or hands-on care required for the child, and if there are other household members present who can aid in the supervision of the child. When an exception request is made, CCR&R case managers shall inform parents the approval is not guaranteed. The parent and provider must establish private payment arrangements to ensure that the provider is paid during the time the exception request is reviewed. The following steps should be taken to process an exception request.

6.5.2.1. The CCR&R Case manager will collect all relevant information needed for approval and enter the request into PATH under the Policy Exception Screen. The request must, at a minimum, contain the following information:

- A. Parent(s) name, address, and telephone.
- B. Name and birth dates of children.
- C. Number of people in the household.
- D. Family income.
- E. Reason for requesting an exception. This includes a description of the condition requiring the exception, the date the condition began, and an explanation of why care is needed.
- F. Resources explored for provision of Child Care prior to requesting Child Care services, i.e., community, family, volunteers.
- G. Amount family can financially contribute to the cost of the service.

- H. Probable consequences to the family if the exception is not granted.
- I. Anticipated length of time the exception is needed, and, for illness or injury, the length of time anticipated for recovery.

6.5.2.2 The request for an exception will be reviewed by the CCR&R supervisor. After the supervisor's approval, it must be forwarded via PATH to the Division of Early Care and Education.

6.5.2.3 The Division of Early Care and Education shall review the exception request and provide a decision within 30 days.

6.5.2.4 If approved, payment may be backdated to the date of application.

6.5.2.5 If denied, the case manager shall notify the parent in writing that the exception was not approved, and the parent is responsible for payment to the provider (See Chapter 4, Need for Child Care, for additional exception requirements based on a medical condition.)

6.6. Negative Actions: Appeals and Fair Hearings

Any notification of negative action must be in writing on the Parent Notification Letter (DAY0177 or DAY-0179), including denial of an application and termination of services. The form letter shall include the specific negative action, with citation of specific policy and a description of any action, if applicable, on behalf of the client that resulted in the negative action. The original Notification Letter (DAY-0177 or DAY-0179) shall be sent to the parent, with a copy saved to PATH and, if a paper file is maintained, a copy put in the correspondence block of the record. **The negative action shall also be documented in the PATH Contact screen. Most negative actions affecting the recipients of Child Care, other than denial of an application, cannot be taken until 13 calendar days after the client has been notified.**

DISCUSSION

Policy stipulates that families must demonstrate a need for Child Care to be eligible for Child Care services. The parent 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. In certain situations, Child Care may be approved for children under the age of six years due to 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 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.

The Appellant completed an eligibility review in January 2026 and reported that she had been approved for Total Temporary Workers Compensation benefits due to a spinal injury. Jessica Sumpter, the Appellant's caseworker, requested a medical exemption from participating in a work activity on behalf of the Appellant from the Division of Early Care and Education. The Respondent

terminated the Appellant's Child Care benefits effective January 14, 2026, as she was no longer participating in a work activity and the medical exemption was denied.

The Respondent failed to provide the medical exemption request or accompanying medical documentation as evidence. Ms. Sumpter testified that a statement from the Appellant's physician describing her inability to lift over fifteen pounds was provided, the award letter from Workers Compensation, and her treatment plan were among the items submitted with the medical exemption request. Ms. Sumpter contended that she was advised by the Division of Early Care and Education that the Appellant's children were not infants that she had to lift and carry.

The Appellant testified that she cannot lift her children and has difficulty walking and moving. The Appellant stated she is in physical therapy and receives spinal injections for her injury. The Appellant contended that she is looking for sedentary employment that will accommodate her medical condition.

Policy stipulates that a medical exemption from participating in a work activity can be approved for a six-month period due to a recent determination of temporary or permanent disability of the parent. An official disability determination by a state or federal agency with a determination date that is within three (3) months of the Child Care application or redetermination, the treatment plan, and a medical statement by a licensed physician which describes how this condition prevents the care of children is required for the approval of the exemption.

The Appellant provided her Workers Compensation award letter documenting the approval of temporary disability, her treatment plan, and a statement from her physician describing her limitations to provide care for her children, both of whom are under the age of six. The Appellant meets the criteria in policy for a medical exemption from participating in a work activity.

The Respondent failed to provide proper notification to the Appellant regarding the termination of her Child Care services. Policy requires that a recipient be notified in writing of a denial of a medical exemption. The January 15, 2026, notice of termination indicated the reason for termination was the Appellant's failure to participate in a work activity, with an effective closure date of January 14, 2026. Pursuant to policy, a negative action cannot be taken until thirteen days after the recipient has been notified of the closure.

Based on the testimony and the lack of evidence provided by the Respondent, the Respondent failed to prove that the Appellant did not meet the medical criteria in policy found in policy to meet a medical exemption based on temporary disability.

Whereas the Appellant meets the criteria for an exemption from participating in a work activity due to the recent determination of temporary disability, the Respondent's decision to terminate the Appellant's Child Care services cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Policy stipulates that a medical exemption from participating in a work activity can be approved for a six-month period if a recent determination of temporary or permanent disability of the parent with children under the age of six.
- 2) The Appellant's children are ages three and four years old.
- 3) An official disability determination by a state or federal agency with a determination date that is within three (3) months of the Child Care application or redetermination, the treatment plan, and a medical statement by a licensed physician which describes how this condition prevents the care of children is required for the approval of the exemption.
- 4) The Appellant provided her Workers Compensation award letter, treatment plan, and a statement from her physician documenting her physical limitations regarding Child Care.
- 5) The Appellant meets the criteria in policy for a medical exemption from participating in a work activity.

DECISION

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to terminate the Appellant's Child Care services. Retroactive Child Care benefits will be approved effective January 15, 2026.

ENTERED this 19th day of February 2026.

Kristi Logan
Certified State Hearing Officer