WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted]

Appellant,

v. **Action Number: 26-BOR-2340**

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 August 18, 2026.

The matter before the Hearing Officer arises from the June 23, 2026 decision by the Respondent to deny Child Care subsidy benefit application.

At the hearing, the Respondent appeared by Caitlin Lipscomb, Child Care Resource and Referral Worker. The Appellant was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Child Care Subsidy Policy & Procedure Manual, Chapter 4, §§4.3.6.3, 4.3.6.6
- D-2 State of West Virginia Department of Health and Human Resources Pending Notification of New Applicants, notice of verifications (DAY-0177), printed June 3, 2026 with due date of June 16, 2026
- D-3 Copy of State of West Virginia Agent License
- D-4 Child Care Parent Notification Letter Notice of Denial (DAY-0179), dated June 23, 2024* (*typo in date).

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 is a licensed insurance agent. (Exhibit D-3)

2) The Appellant previously worked as a member of a Limited Liability Company (LLC), which dissolved in 2024.

3) The Appellant is self-employed.

4) The Appellant applied for Child Care subsidy benefits on June 3, 2026.

5) On June 3, 2026, the Appellant's application was pended for the listed verifications on the Pending Notification of New Applicants, due by June 16, 2026. (Exhibit D-2)

6) The June 3, 2026 verification letter explained that for self-employment a copy of a "business license and/or contract for service" was required. (Exhibit D-2)

7) On June 23, 2026, a notice of denial (DAY-0179) was issued citing the reason for denial because "You failed to provide verification of self employment [sic] with a state Business License or registration, as required by WV Child Care Policy." (Exhibit D-4)

8) The denial notice cited Child Care Subsidy Policy §4.3.6.3:
"At the time of application, Self Employed individuals must provide a copy of their current State of West Virginia Business Registration, copy of consultant contract for independent sales, and a copy of any other required trade licenses or certifications." (Exhibit D-4)

9) The Appellant did not have a business registration certificate, asserting that the state of West Virginia does not require a business license for her sole-proprietorship.

APPLICABLE POLICY

WV Code § 11-12-3. Business registration certificate required; tax levied; exemption from registration; exemption from tax; penalty, in part:

(a) Registration required. — No person shall, without a business registration certificate, engage in or prosecute, in the State of West Virginia, any business activity without first obtaining a business registration certificate from the Tax Commissioner of the State of West Virginia.

…

(c) Exemption from registration. — Any person engaging in or prosecuting business activity in this state:

(1) Who is not required by law to collect or withhold a tax administered under article ten of this chapter; and

(2) Who does not claim exemption from payment of taxes imposed by articles fifteen and fifteen-a of this chapter, shall be exempt from both registration and payment of the tax imposed by this article, if such person had gross income from business activity of $4,000 or less during that person's tax year for state income tax purposes immediately preceding the registration period for which a registration certificate is otherwise required by this article.

(d) Exemptions from payment of tax. — Any person engaging in or prosecuting any business activity in this state who is required by law to collect or withhold any tax administered under article ten of this chapter; or who claims exemption from payment of the taxes imposed by articles fifteen and fifteen-a of this chapter, shall be required to obtain a business registration certificate, as herein before provided, but shall be exempt from payment of the tax levied by subsection (b) of this section …

WV CCSP, Chapter 4, §4.3.6.3: At the time of application, Self Employed individuals must provide a copy of their current State of West Virginia Business Registration, copy of consultant contract for independent sales, and a copy of any other required trade licenses or certifications. Check the State of West Virginia Secretary of State web site for information on what types of self-employment require a trade license: www.wvsos.com/business/licensing/checklicensing.htm.

WV CCSP, Chapter 4, §4.3.5.1 ***Types of Self-Employment – sole proprietorship*** is a business run by an individual. The owner is the business; or the owner has all the profits and losses of the business. The owner also has all the control and all the liability for the business operations. Business taxes are paid by the owner through his or her personal income tax return.

A. An individual who is the owner of a business type other than a Sole Proprietorship is not eligible for Child Care Subsidy.

B. An individual who receives regular/irregular income or salary from any business type other than a Sole Proprietorship and owns any portion of that business, is not eligible for Child Care Subsidy.

C. An individual participating as a partner of any business is not eligible for child care subsidy.

WV Child Care Subsidy Policy (October 2024) § 4.3.6.6(A) provides that self-employment type approvals are limited to Contracted, Sole Proprietorships. Applicants participating as a member of a C Corporation, S Corporation, Limited Liability Company (LLC), or Partnership, shall not be eligible for WV Child Care Subsidy. A sole proprietorship is an individual who owns and operates trade or a business alone. All profit and loss belong to the individual.

DISCUSSION

The Appellant applied for Child Care subsidy benefits on June 3, 2026. The Appellant is a licensed insurance agent. Previously, the Appellant worked as an LLC, but her LLC expired in 2024. At

the time of the June 2026 application, the Appellant was self-employed working as an independent contractor. On June 3, 2026, a written verification list was issued to the Appellant indicating that she was required to submit verification of her self-employment, including a copy of her "business license and/or contract for service." All verifications were required to be submitted by June 16, 2026. On June 23, 2026*, a notice of denial was issued to the Appellant citing the reason for denial of her application was based upon her failure to provide "verification of self employment [sic] with a state Business License or registration …" The policy section cited was WV CCSP, §4.3.6, *et. seq*. Specifically, §4.3.6.3 highlighted that "At the time of application, Self Employed individuals must provide a copy of their current State of West Virginia Business Registration, copy of consultant contract for independent sales, and a copy of any other required trade licenses or certifications." (*It was noted that the June notice of denial was dated for the year 2024. The Respondent's representative testified that this was a typographical error. The Appellant did not contest this fact and the typographical error did not prejudice the Appellant's appeal rights.)

The Appellant appeals the Respondent's denial of her June 2026 Child Care subsidy benefit application, contending that the state of West Virginia does not require her to obtain a business license and therefore the basis for the denial was incorrect.

West Virginia Code, §11.12.3(a), specifically mandates that "No person shall, without a business registration certificate, engage in or prosecute, in the State of West Virginia, any business activity without first obtaining a business registration certificate from the Tax Commissioner of the State of West Virginia." However, the West Virginia Code does allow for an exemption from registration, but no evidence was presented to determine if the Appellant met the business registration exemption or whether it was considered by the original case worker. (The original caseworker who processed the Appellant's case was not present at the hearing as she no longer works for the agency.)

The June 3, 2026 notice of needed verifications specifically listed the need to provide a "Business license and/or Contract for service." Unfortunately, the term "business license" which is used in the verification request is vague and does not adequately reflect the Respondent's own policy language in CCSP, §4.3.6.3, as noted above. The evidence showed that the Appellant's Agent License to sell insurance was provided to the Respondent's worker, which would appear to fulfill the language of the verification request.

Clearly, there is a conflict in the language between the requested verification and the Respondent's own policy and state regulation. An incorrect verification request caused the Appellant to submit only her business license, which was what was requested. However, because the Respondent's policy requires a business registration certificate, along with a business license, the Appellant should be given an opportunity to fulfil this requirement or show that she was exempt from business registration as allowed by the state regulations. The Respondent failed to show that it provided the Appellant the opportunity to do so.

It is noted, however, that the Appellant did testify that she has since registered as a sole proprietorship in July 2026 and reapplied for the Child Care Subsidy program benefits, but has been denied. It was explained to the Appellant that she has the right to a fair hearing on that subsequent denial, if she so wishes.

Because the Respondent failed to show that it correctly followed policy and regulations in its decision to deny the Appellant's June 3, 2026 Child Care Subsidy program benefit application, its decision cannot be affirmed.

CONCLUSIONS OF LAW

1) Policy requires self-employed individuals to provide at the time of application a copy of their current State of West Virginia Business Registration, copy of consultant contract for independent sales, and a copy of any other required trade licenses or certifications.

2) Because the Appellant is a self-employed individual, the Respondent issued a verification list which required the Appellant to submit a "Business license and/or Contract for service."

3) The Appellant submitted a copy of her State of West Virginia Agent License to fulfill the verification request.

4) West Virginia regulations directs that no person shall, without a business registration certificate, engage in any business activity without first obtaining a business registration certificate from the Tax Commissioner of the State of West Virginia, unless exempt.

5) There was insufficient evidence to show that the Appellant was given an opportunity to establish that she was exempt at the time of her application from having to obtain a business registration in order to meet the Respondent's policy or the state regulation.

6) No evidence was presented at the hearing to establish that the Appellant met the state's business registration exemption.

7) The Respondent failed to show by a preponderance of evidence that it correctly followed policy in denying the Appellant's Child Care subsidy program application based on a failure to submit the required verifications for self-employment.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to deny the Appellant Child Care subsidy program application. The matter is **REMANDED** to allow the Appellant an opportunity to show she was exempt at the time of application from obtaining a business registration certificate as required by state regulations.

ENTERED this 1st day of September 2026.

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Lori Woodward, Certified State Hearing Officer