



June 19, 2024

[REDACTED]

RE: [REDACTED] v. WVD<sub>o</sub>HS  
ACTION NO.: 24-BOR-2131

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

cc: Kimberly Perrine, [REDACTED]

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

████████████████████  
██████████,

v.

**Action Number: 24-BOR-2131**

**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 ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on June 11, 2024.

The matter before the Hearing Officer arises from the Respondent's termination of Child Care benefits as outlined in a notice dated April 17, 2024.

At the hearing, the Respondent appeared by Kimberly Perrine, Subsidy and Resource Coordinator, ██████████ Resource and Referral. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 West Virginia Child Care Subsidy Policy and Procedures Manual Sections 4.3.6.4 and 5.2.2.1
- D-2 Child Care Parent Notification Letter of Closure dated April 17, 2024
- D-3 Fair Hearing Request Form

**Appellant's Exhibits:**

- A-1 Child Care Certificate for child ██████.
- A-2 Child Care Parent Notification Letter of Closure dated April 17, 2024
- A-3 West Virginia Child Care Subsidy Policy and Procedures Manual Sections 3.2.7, 3.2.7.2 and 3.2.7.3
- A-4 Letter from Child Protective Service Worker ██████████ dated April 22, 2024

- A-5 Kinship/relative certification for period of February 23, 2023, through February 23, 2026
- A-6 Business and Licensing information for [REDACTED]
- A-7 [REDACTED] pay stubs from [REDACTED]
- A-8 Appellant's pay stubs from [REDACTED]

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, who serves as a kinship/relative care provider, applied for Child Care benefits on November 28, 2023, and was subsequently approved for services.
- 2) The Appellant and her husband, [REDACTED] are employed full-time, and her husband is also the owner of [REDACTED] a sole proprietorship (Exhibits A-6, A-7 and A-8).
- 3) On April 17, 2024, the Respondent sent the Appellant a Child Care Parent Notification Letter of Closure, indicating that she was required to submit 2023 income tax forms to [REDACTED] by April 30, 2024, or her Child Care benefits would close (Exhibits D-2 and A-2).
- 4) Self-employment income tax forms were not received by April 30, 2024, and Child Care benefits were terminated.
- 5) The Appellant requested an extension on submission of her taxes to the Internal Revenue Service (IRS) until October 2024 (Exhibit D-3).

### **APPLICABLE POLICY**

West Virginia Child Care Subsidy Policy and Procedures Manual Section 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.

West Virginia Child Care Subsidy Policy and Procedures Manual Section 4.3.6.4 states:

Self-employed individuals must provide a complete copy of their current tax return by April 30 of each year, including the 1040 form, 1040 Schedule C, (Profit or Loss from Business), 1040 Schedule SE, (Self-Employment tax), and any other tax forms as required per type of self-employment. (Refer to chart, Section 4.3.7) Under no circumstances will an extension for submission of tax returns be granted, even if the client has been granted an extension to file by the IRS. Clients granted an extension to file by the IRS will be closed for failure to submit tax returns by the April 30<sup>th</sup> deadline.

West Virginia Child Care Subsidy Policy and Procedures Manual Section 5.2.2.1 states that self-employed clients with prior established self-employment must turn in tax records to the CCR&R by April 30 of each year to verify that the business is producing taxable income at the time of assistance.

West Virginia Child Care Subsidy Policy and Procedures Manual Section 3.2.7 states:

For kinship/relative caretakers who need child care because the caretakers are participating in education or employment, services are available for children in the custody of the State of West Virginia, providing that the kinship relatives do not own assets in excess of \$1,000,000.

West Virginia Child Care Subsidy Policy and Procedures Manual Sections 3.2.7.2 and 3.2.7.3 state that financial eligibility for the Child Care Program is based on the kinship child's income. Caretaker income is excluded in determining eligibility, but kinship/relative caretakers must verify employment or attendance in an education or job training program.

## **DISCUSSION**

Policy states that to qualify for Child Care services, 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. Self-employed individuals must provide a complete copy of their current tax return by April 30 of each year. Under no circumstances will an extension for submission of tax returns be granted, even if the client has been granted an extension to file by the IRS. Clients granted an extension to file by the IRS will be closed for failure to submit tax returns by the April 30<sup>th</sup> deadline. While caretaker income is excluded in determining eligibility for Child Care benefits, kinship/relative caretakers must verify employment or attendance in an education or job training program.

The Appellant testified that she was not receiving Child Care benefits for her own nine children but wishes to receive the services for the two children currently under her care in a kinship/relative placement. She pointed out that caretaker relative income is excluded for the Child Care Program and that she is trying to provide assistance to the two children. The Appellant testified that both she

and her husband are employed at regular full-time jobs and her husband is also self-employed. She testified that she works 40 hours per week and her husband works an estimated 100 hours per week. The Appellant contended that she previously had a foster child for whom she received Child Care benefits, and she was never previously asked to provide self-employment tax forms.

The Respondent's representative testified that the agency requires self-employment verification to ensure that there is no misrepresentation or fraud in the Child Care Program and that recipients are participating in a qualifying activity. She stated that while the Appellant noted on her hearing request that she had requested an extension on filing taxes through the Internal Revenue Service, IRS policy does not supersede Child Care policy and all income is required to be verified.

While the Appellant provided pay stubs to the Respondent, tax forms were not submitted by April 30th as required by Child Care policy. Therefore, the Respondent's decision to terminate Child Care benefits is affirmed.

### **CONCLUSIONS OF LAW**

- 1) Child Care policy requires self-employed individuals to provide a complete copy of their current tax return to the Respondent's Child Care division by April 30th of each year with no allowance for extensions.
- 2) The Appellant did not submit self-employment tax information to the Respondent by April 30, 2024, as requested.
- 3) The Respondent's decision to terminate Child Care benefits is correct.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to terminate the Appellant's Child Care benefits.

**ENTERED this 19<sup>th</sup> day of June 2024.**

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**Pamela L. Hinzman  
State Hearing Officer**