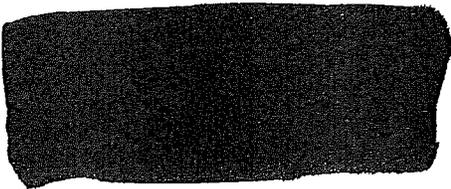


STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
EXECUTIVE OFFICES OF HEALTH AND HUMAN SERVICES  
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Docket # 14-780  
Hearing Date: July 7, 2014

Date: July 10, 2014



**ADMINISTRATIVE HEARING DECISION**

The Administrative Hearing that you requested has been decided in your favor. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

**THE DHS CODE: CHILD CARE ASSISTANCE PROGRAM (CCAP)**  
**SECTION: 0850.02.02 APPLICATION PROCESS**  
**SECTION: 0850.02.04 CRITERIA FOR INCOME ELIGIBILITY**

The facts of your case, the Agency policy, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the appellant), and Agency representative David Nielson and Karen Beese.

Present at the hearing were: You, your colleague, and Agency representative David Nielson.

**ISSUE:** Is the appellant ineligible for the Child Care Assistance Program (CCAP) as of April 5, 2014 because she failed to provide sufficient verification of her husband's job income?

**DHS POLICIES:**

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy Manual.

**APPEAL RIGHTS:**

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

## DISCUSSION OF THE EVIDENCE:

### The Agency representative testified:

- The Agency received the appellant's CCAP recertification application on January 29, 2014.
- The appellant had provided one business check dated January 13, 2014 made out to her husband in the amount of \$300.00.
- The appellant is paid biweekly and she submitted two pay stubs of her own but they had the same date but different check amounts.
- The Agency sent a letter to the appellant requesting additional current pay stubs of her own and a copy of her husband's 2013 Federal tax return or a copy of his 1099 form.
- The appellant's paystubs that were initially submitted indicated that she was not working a minimum of 20 hours a week as required.
- The appellant did not provide the requested documentation by March 24, 2014 so her Child Care Assistance case was closed for two reasons. Because she was not working at least 20 hours a week and because she did not provide sufficient verification of her husband's job income.
- On March 27, 2014 the appellant provided a letter from both her and her husband's employers.
- While the appellant provided additional paystubs of her own, she did not provide any pay stubs, or a tax return or 1099 for her husband as requested.
- The additional evidence submitted has fully verified the appellant's income and that she works a minimum of 20 hours a week.
- The husband's two \$300.00 checks that were submitted are unacceptable as verification of income because they do not identify a time frame for which he is being paid and/or how often he works, how often he gets paid, and/or whether it is gross or net income.
- The Agency does accept an employer letter for new applicants or for self-employed applicants but because the husband cannot provide a check that conclusively verifies his income, the Agency asked for the tax return or the 1099.
- The husband's employer's letter also does not verify gross and/or net wages or show how much he has been paid previously, how often he is paid, or how many weeks a year he works.

- If a person is self-employed, paid cash, or paid by personal or business check, it does not confirm that it has been a steady job or how often the person works so the Agency asks for a tax return or 1099 to get that information that the Agency needs.
- The tax return for the previous year would tell the Agency how much he generally earns in a week or month.
- He thinks he did try to call the husband's employer once but did not actually speak to him.
- The State minimum wage is \$8.00 an hour.
- The husband's employer's letter alone is insufficient. Without a tax return or a 1099, then the Agency needs to have copies of four of the husband's consecutive pay checks.
- The appellant can reapply for CCAP and just make sure she copies four of her husband's paychecks before he cashes them.

**The appellant testified:**

- When CCAP told her to bring in her and her husband's employers' letters, they did not tell her that they needed to specifically say what has just been testified that they need to say.
- Her husband is an immigrant without legal status so she cannot provide the agency with a tax return or a 1099 for him because he cannot and does not file taxes.
- She has provided the information that they do have in good faith.
- Her husband works and provides for four children, three of which are not his.
- He has worked for the same company she thinks for three years.
- He works 52 weeks a year, 37.5 hours a week.
- Due to a prior work injury, he is limited in the work he can do and that is why he only earns minimum wage.
- He gets a \$300.00 business check every week signed by the owner of the company. The \$300.00 is his gross pay for 37.5 hours of work. No taxes or deductions of any kind are taken out.

- She does not have copies of her husband's four consecutive pay checks. She only makes a copy of her husband's check when she knows she will need it for applying for or recertifying for some assistance program. Once he cashes the check the bank keeps it so she cannot make a copy of his previous checks.
- He does not have a Social Security number so has no bank account. He receives cash from the bank.
- She recently provided a copy of her husband's most recent paycheck and a similar letter from his employer to the SNAP office and is currently receiving SNAP benefits based on that information.
- Providing an employer's letter has never been an issue with getting CCAP before.
- The employer's letter she gave to the SNAP unit has more information because the SNAP unit told her exactly what the employer needed to provide in the letter. CCAP did not do that.
- When her Child Care Assistance was closed she had to take a leave of absence from her work until she could make other arrangements for the care of her child.

#### **FINDINGS OF FACT:**

- The appellant was sent a notice dated March 24, 2014 informing her that authorization for child care assistance would end on April 5, 2014 because she did not provide required verification of her husband's job income and because she was not working an average of 20 hours per week.
- The appellant filed a timely request for hearing received by the Agency on April 21, 2014.
- An Administrative Hearing was convened on July 7, 2014.
- The appellant does work a minimum of 20 hours a week.
- The appellant has submitted copies of two of her husband's paychecks and two letters from her husband's employer.
- The appellant's husband was been employed by the same company for two years.
- At the time of the CCAP recertification, the appellant's husband was working 37.5 hours a week, earning \$8.00 per hour, and being paid weekly by check.

- No taxes and/or any deductions are taken from the appellant's spouse's earnings.

## **CONCLUSION:**

The issue to be decided is whether the appellant is ineligible for the Child Care Assistance Program (CCAP) as of April 5, 2014 because she failed to provide sufficient verification of her husband's job income.

There is no dispute that the appellant was in receipt of income eligible Child Care Assistance and was required to recertify in March 2014 to determine whether she continued to be eligible for the program. There is also no dispute that she submitted her recertification application on January 29, 2014 and while the initial documentation she submitted indicated that she was not working a minimum of 20 hours a week as required for CCAP eligibility to exist, that issue has subsequently been resolved upon the appellant's submission of additional documentation.

The Agency argues that the appellant is ineligible for continued CCAP benefits because the documentation she provided during the recertification process and subsequent to the CCAP closure and/or during the appeal process, is unacceptable and/or does not sufficiently verify her husband's income for the Agency to determine if she continues to meet the CCAP's income criteria.

The appellant testifies that her husband has been working for the same company for approximately three years, works 37.5 hours a week on a consistent basis all year, and earns minimum wage of \$8.00 an hour but that she cannot provide the Agency with a tax return or a 1099 as they requested because her husband does not file a tax return due to his immigration status. She further testifies that his employer pays him \$300.00 by check each week and that no taxes or deductions of any kind are taken out of his earnings. Since he has no bank account, he receives a cash payout at the bank and since he does not receive a paystub with his check, once he cashes his checks, she is unable to make a copy. It must be noted, a review of the February 18, 2014 letter the Agency sent to the appellant to request additional documentation finds that while the Agency specifically asked the appellant to provide copies of her paystubs, they did not request copies of her husband's paystubs and/or paychecks, but instead only requested a copy of his 1099 form and his last tax return. The appellant argues that she has provided a letter from her husband's employer verifying his employment and income and that a similar letter was acceptable to the CCAP in the past to approve her CCAP benefits, and was recently acceptable to the Agency in approving her SNAP benefits. In response, the Agency argues that an employer's letter is acceptable upon initial application for CCAP but then in the absence of a tax return or a 1099, the Agency subsequently requires copies of four consecutive paychecks or paystubs and they only received a copy of one of the husband's paychecks. The Agency argues that the husband's paycheck and employer's letter submitted to the CCAP unit fail to verify how many weeks a year he works, how steady or consistently he works, how much he has

been paid previously, how often he is paid, and/or whether the \$300.00 he received was gross and/or net wages. The appellant argues that if the information provided in the employer's letter was not sufficient, the Agency could have contacted the employer at the telephone number provided in the letter. The Agency testifies that he believes that he did make an attempt to contact the employer on one occasion but was unsuccessful in doing so. At hearing, the appellant submits the employer's letter she submitted to the Agency's SNAP unit, which she testifies includes more information than the one submitted to the CCAP unit because the SNAP worker told her exactly what information the Agency needed from her husband's employer. The Agency testifies that without copies of four consecutive pay checks, the second letter is also insufficient to determine CCAP eligibility.

Per CCAP rules and regulations, verification of certain eligibility criteria is required upon application or recertification of CCAP benefits. If the required documentation/verification is not provided, the application or recertification application must be denied. Recertification of income eligible child care requires verification of countable gross income to ensure that the program's income standards are met. Further review of CCAP policy finds that in determining income eligibility for CCAP, the Agency uses prospective budgeting, meaning that the Agency must determine the appellant's eligibility for CCAP based on what her and her husband's countable income will be in the months for which CCAP benefits will be authorized subsequent to recertification. To accomplish this, the Agency should use the best information available that will provide an accurate reflection of the appellant's anticipated future income. Generally, verification of the previous 30 days of income, if such income is steady and stable, will accurately project future income, thereby explaining the Agency's request for copies of four paychecks, but it should be noted, per CCAP policy, if information is already known to another Agency program/unit and/or sufficient verification has already been provided to another Agency unit/program, then the CCAP unit should utilize that information/verification.

The appellant testifies that her spouse's income has already been sufficiently verified by the SNAP program by means of an employer's letter. The Agency neither confirms nor denies this. The record of hearing includes copies of two of her husband's nonconsecutive pay checks and two employer's letters, one submitted to the CCAP unit and one that the appellant claims was submitted to the SNAP unit. A review of both employer's letters, one dated March 26, 2014 and one dated May 29, 2014, finds that the husband's employer verified that he has been employed by the company for two years and was working Monday through Friday for a total of 37.5 hours a week and was being paid \$8.00 an hour. There is no indication in either letter that such employment would not continue and/or that any changes in hours and/or pay rate would occur. Both letters also included an offer to answer any questions upon contact. A review of both checks, one dated January 13, 2014 and one dated April 5, 2014 finds that they are company checks made out to the appellant's husband in the amount of \$300.00. The fact that the checks are for \$300.00, an amount equal to 37.5 times \$8.00, verifies that no taxes or any other deductions are taken out and that \$300.00 is the husband's gross weekly pay.

In summary, the appellant has provided credible testimony as to her husband's employment, job income, and available documentation. The documents submitted are consistent with that testimony, provide the most reliable information available, and sufficiently verify her spouse's income for the Agency to be able to prospectively determine her countable gross income for the purpose of determining her continued CCAP eligibility.

In conclusion, the record establishes that sufficient verification of the appellant's husband's job income has been submitted to allow processing of the appellant's recertification application.

After a careful review of the Agency's policies, as well as the evidence and testimony given, this Appeals Officer finds that the appellant has provided the Agency with sufficient verification of income as required by the CCAP program and authorization of her Child Care Assistance should not have been terminated as of as of April 5, 2014 for failing to do so. The appellant's request for relief is thereby granted.

**ACTION FOR THE AGENCY:**

The Agency is to rescind the March 24, 2014 notice of CCAP closure and determine the appellant's eligibility for CCAP as of the date of closure, April 5, 2014, based on the income verification she provided during the recertification process along with the additional verification she provided during the appeals process and/or to any other DHS program.



Debra L. DeStefano  
Appeals Officer