



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

October 7, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2786

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 Health and Human Resources. These same laws and regulations are used in all cases to assure 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: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Tiffany Cobb, Department Representative

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 16-BOR-2786

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

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 Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on October 5, 2016, on an appeal filed October 4, 2016.

The matter before the Hearing Officer arises from the Respondent's September 23, 2016 decision to deny the Appellant's application for Emergency Assistance (EA) benefits.

At the hearing, the Respondent appeared by Tiffany Cobb. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Comments from the Respondent's data system regarding the Appellant's case, entry dates from April 28, 2016, through September 22, 2016
- D-2 Unsigned Personal Responsibility Contract for the Appellant
- D-3 Individual Comments from the Respondent's data system regarding the Appellant's case, entry dates from June 6, 2016, through August 9, 2016
- D-4 Email regarding the Appellant's assigned activity, dated July 5, 2016
- D-5 Email regarding the Appellant's assigned activity for July 18, 2016, dated October 5, 2016

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 applied for Emergency Assistance (EA) benefits.
- 2) The Respondent denied the Appellant's application for EA based on an existing sanction.
- 3) The Appellant was a recipient of WV WORKS benefits.
- 4) The Appellant agreed to a list of assignments and activities on a Personal Responsibility Contract (PRC) as a condition of eligibility for the WV WORKS program. (Exhibit D-2)
- 5) The Appellant's PRC lists one of her required activities as attendance in a skills program (Strategic Planning in Occupational Knowledge for Employment and Success, herein "SPOKES"), Monday through Friday, from 8:30 to 12:00 each day. (Exhibit D-2)
- 6) The Appellant did not comply with this PRC requirement. (Exhibits D-4 and D-5)
- 7) The Respondent placed the Appellant on a WV WORKS sanction based on the failure to comply with her PRC.
- 8) This WV WORKS sanction was in effect for EA purposes at the time of the Respondent's denial of the Appellant's EA application.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), at §19.2.B.5, reads, "When the applicant is a member of an [assistance group] for which any DHHR Program benefit was reduced, denied or closed because of a penalty for fraud, non-cooperation or failure to pursue potential resources, the applicant and members of that program's [assistance group] are ineligible to receive Emergency Assistance," and "The above stated guidelines include all WV WORKS sanctions. [Assistance groups] subject to a 3rd or subsequent WV WORKS sanction are ineligible for Emergency Assistance only during the first 3 months of the sanction.

WVIMM, §13.7, addresses WV WORKS requirements and reads, “Failure or refusal to comply with the requirements of the work component may adversely affect the client’s WV WORKS eligibility or the amount of his WV WORKS check.”

The WVIMM, at §13.10, addresses work requirements for the WV WORKS program, and indicates that failure or refusal to comply with these requirements, without good cause, results in the imposition of a sanction.

DISCUSSION

The Respondent denied the Appellant’s application for EA and the Appellant requested this hearing to appeal that decision.

The Respondent must show by a preponderance of the evidence that the Appellant’s household is ineligible for EA based on an existing sanction. The Respondent clearly established this in the hearing.

Prior to her application for EA, the Appellant was receiving WV WORKS benefits. The WV WORKS program requires participants to sign a PRC and agree to its conditions. The Appellant’s PRC required regular attendance in a skills training program, and the testimony and evidence clearly demonstrated the Appellant did not meet this requirement. The Appellant’s WV WORKS benefits were sanctioned correctly on this basis. By policy, this WV WORKS sanction makes the Appellant ineligible for EA. The Respondent was correct to deny the Appellant’s application for EA based on the outstanding WV WORKS sanction.

CONCLUSION OF LAW

Because the Respondent correctly established a WV WORKS sanction against the Appellant, and because this sanction was in effect for EA purposes at the time of the Appellant’s application for EA, the Respondent was correct to deny the Appellant’s application for EA.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent’s denial of EA benefits for the Appellant’s household.

ENTERED this ____ Day of October 2016.

Todd Thornton
State Hearing Officer