



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General**

**Joe Manchin III
Governor**

**Board of Review
P.O. Box 1736
Romney, WV 26757**

**Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary**

July 21, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 15, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to close your WV WORKS cash assistance and not to extend continued supportive service payments to your household.

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.

Eligibility for WV WORKS is based on current policy and regulations. These regulations provide that WV WORKS is a work participation program. Any individual who applies for and is approved WV WORKS benefits must have good cause for not participating in a work activity or be engaged in an activity no later than the end of the second month of benefit receipt. Upon receipt of WV WORKS benefits, a work eligible individual is subject participation eligibility requirements, in which the participant must begin a work activity as scheduled, completing all assigned hours for five consecutive assigned work days. If the individual fails to participate in the assigned activity as specified in the Personal Responsibility Contract, the WV WORKS benefit is closed. Additionally, continued supportive service payments are issued to participants any time the WV WORKS cash assistance is closed for employment. Such a closure may be at the client's request or may be due to excess income, but the participant must be employed, working the required number of hours as established by policy.

The information which was submitted at your hearing revealed that while you are employed your WV WORKS cash assistance was closed based on your failure to comply with the work requirements as outlined in policy; therefore you are not eligible for continued supportive service payments.

It is the decision of the State Hearing Officer to Uphold the action of the Department to terminate your WV WORKS cash assistance and not extend continued supportive service payments.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
-----, FSS

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

-----,

Claimant,

v.

Action Number: 10-BOR-1514

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on July 15, 2010 on a timely appeal, filed June 23, 2010.

II. PROGRAM PURPOSE:

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited Program that emphasizes employment and personal responsibility. The goals of WV WORKS are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by promoting self-sufficiency, and structure assistance to emphasize employment and personal responsibility.

III. PARTICIPANTS:

-----, Claimant
-----, Family Support Specialist
-----, Family Support Supervisor

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its decision to terminate the Claimant's WV WORKS assistance and to not extend continued supportive service payments.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 15.7; 24.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Computer printout of work participation comments for [REDACTED] from eRAPIDS the Department's benefit issuance system dated March 2010
- D-2 Computer printout of work participation comments for ----- from eRAPIDS the Department's benefit issuance system dated March 2010 through April 2010
- D-3 West Virginia Income Maintenance Manual § 15.7
- D-4 West Virginia Income Maintenance Manual § 24.16
- D-5 Computer printout of case comments from RAPIDS, the Department's benefit issuance system dated March 2010 through June 2010
- D-6 Appointment letter dated May 14, 2010
- D-7 Notice of Decision dated May 17, 2010
- D-8 Computer printout of WV WORKS issuance history dated July 15, 2010

Claimants' Exhibits:

- C-1 Job referral contact information for [REDACTED]
- C-2 WV WORKS Participant Time Sheet dated July 2010
- C-3 WV WORKS Participant Time Sheet dated June 2010

VII. FINDINGS OF FACT:

- 1) -----, Family Support Supervisor, testified that the Claimant and his household were recipients of WV WORKS cash assistance from March 2010 through May 2010. -----indicated that the Claimant's WV WORKS benefits were closed effective May 31, 2010, as the Claimant and his wife did not comply with program participation eligibility requirements. ----- indicated that any individual that receives WV WORKS cash assistance must participate in a work activity, unless otherwise exempt for five consecutive days during the first two months of assistance receipt. ----- stated that the Claimant was required to participate in job readiness classes and continue to search for employment. The Claimant's wife was required to participate in classes to obtain her General Equivalency Degree (GED).
- 2) ----- testified that both individuals failed to meet participation eligibility requirements. On May 17, 2010, the Claimant was issued Exhibit D-7, Notice of Decision. This exhibit documents in pertinent part:

Action: Your WV WORKS/WVEAP benefits will stop. You will not receive this benefit after May 2010.

Reason: Your WV WORKS cash assistance has stopped. You are ineligible to continue to receive cash assistance because you failed to participate in a work activity without good cause.

- 3) ----- testified that policy requires a good cause meeting to determine if the recipients have good cause for failing to adhere to the participation eligibility requirements. On May 14, 2010, the Department issued Exhibit D-6, Appointment Notice, informing the Claimant of a scheduled meeting on May 25, 2010. This exhibit documents in pertinent part:

This is a WV WORKS good cause appointment for not being in an activity. Policy found in DHHR Income Maintenance Manual 15. 7 Requirement for Being Engaged in Work (WV WORKS). 5 day rule

----- stated that the Claimant and his wife attended the good cause hearing but failed to provide good cause for their failure to participate with the program participation requirement.

- 4) ----- purported that the Claimant reported during the good cause determination that he secured employment that day and was scheduled to work that evening. ----- indicated that the Claimant did not qualify for continued supportive service payments as the case was closed for his failure to comply with participation eligibility requirements and not for employment. ----- testified that individuals, who close their WV WORKS assistance for employment, are offered the choice of continued supportive service payments or an Employment Assistance Program payment. -----acknowledged that the worker conducting the good cause appointment with the Claimant incorrectly placed the household in continued supportive service payment option of the program. ----- indicated that this was incorrect as the Claimant did not qualify as his assistance was not closed for employment and closed for his failure to abide by the participation requirements. Upon discovery of the error, the Department revoked the continued supportive service payments. It shall be noted that the Claimant received one support payment for work boots during the period for he was not eligible.
- 5) The Claimant described the financial difficulties of the household during their receipt assistance. The Claimant indicated that both he and his wife were ill and evicted from their home. The Claimant stated that he did not attend his job readiness classes as he continued to search for employment and accept job referrals with the Bureau of Employment Programs. The Claimant cited a lack of transportation and child care as to reasons in which his wife could not participate with GED classes. The Claimant stated that he submitted a time sheet for three days of May 2010 employment and was reimbursed \$45.00 in supportive service payments while he was an active participant with the WV WORKS program. The Claimant submitted Exhibit C-1, to document that he had applied for employment with [REDACTED]. Additionally, the Claimant noted that he submitted Exhibit D-3, WV WORKS Participant Time Sheet, to identify his employment for the month of June 2010 to and apply for travel reimbursement. The Claimant maintains that he has not heard a response from his submission and contends that he has been informed that there is no record of his request. The Claimant testified that he is in need of supportive service payments, specifically travel reimbursement for the next six months to stabilize his employment situation and transition his family toward self-sufficiency.

6) West Virginia Income Maintenance Manual Chapter 15.7 states in pertinent part:

WV WORKS is a work participation program. An individual who applied and is approved for WV WORKS benefits must have good cause for not participating in a work activity or be engaged in an activity no later than the end of the 2nd month of benefit receipt or is ineligible. If the recipient is determined to have good cause the situation must be reviewed and documented monthly.

Starting on the first day that WV WORKS benefits are received, a Work-Eligible Individual is subject to the work requirement. Therefore, the individual must be placed in a work activity as soon as possible. This placement should occur when the benefit is approved, concurrently with the initial assessment of the recipients' skill, prior work experience, and determination of employability. If the individual initially has a documented good cause for not participant, he is temporarily excused from participating. The Worker approves the benefit, enrolls the individual in the appropriate component, and makes any referrals needed to overcome the exemption of good cause reason. Any temporary exemption must be reviewed at least monthly to determine if the situation continues. If the Worker determines that the person is ready to participate at application, the Worker approves the benefit, enrolls the participant, requests any necessary support payments, and makes any necessary referrals. The participant must then begin his work activity as scheduled and complete all assigned hours for 5 consecutive assigned work days to meet his participation eligibility requirement. If he fails to participate as specified on his PRC, the WV WORKS benefit is closed.

7) West Virginia Income Maintenance Manual Chapter 21.16 states in pertinent part:

Beginning January 2008, Work-Eligible Individuals may choose between 2 employment support options any time WV WORKS cash assistance is closed and the participant reports employment. The closure may be at the client's request or may be due to excess income, but the participant must be employed the required number of hours.

Eligibility for Employment Support Options

- Gross family income is 150% or less of the current FPL, excluding SSI income; and

- The family resides in West Virginia; and

- One adult in the family, who lives in the household, meets all of the following requirements:

- Is employed,

For the EAP, this must be full-time employment defined for a 1-parent family as 128 hours or more per month or 85 hours for a single parent with a child under 6; and defined for a 2-parent family as 150 hours or more per month or 236 hours when the family receives federally funded child care. For a 2-parent household, the hours required may be met by combining the work hours of both parents.

- Due to employment, the AG exceeds the program income limit or requested the benefit be closed due to employment;

- Received a monthly WV WORKS benefit, not solely a DCA payment, as a Work-Eligible Individual or was in the household as a non-recipient Work-Eligible Individual; and

- Has a dependent child in the home. Dependent child is defined in the WV WORKS parts of Sections 15.2,A,C and D.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that all recipients of WV WORKS cash benefits, unless exempt through determination of good cause, are required to be engaged in a work activity no later than the end of the second month of benefit receipt. Failure of the individual to participate with this requirement results in closure of WV WORKS assistance.
- 2) Policy stipulates that work-eligible individuals may choose between two employment support options any time the WV WORKS benefit is closed due to employment, in which countable household income exceeds established guidelines. Eligibility for such services requires that the individual be employed, in which such employment exceeds the program income limit, or the individual requests closure of the WV WORKS benefits based solely on employment.
- 3) The Claimant was notified of the termination of his WV WORKS benefits and afforded the opportunity to establish good cause for his failure to comply with the participation eligibility obligations of his Personal Responsibility Contract. The Claimant did not establish good cause for his failure to comply with all policy requirements; therefore the Department was correct in terminating benefits and services provided by the WV WORKS program.

Additionally, the Claimant contended that the reported employment information established good cause as he was seeking employment during his receipt of assistance. This information was reported after the notification of case termination and did not pertain to the Claimant's failure to participate in his assigned activity for five consecutive days; as such requirement to secure employment was in addition to his scheduled job readiness classes. The Claimant has not been denied any subsequent continued supportive service payments after his case closure and no adverse action concerning such benefit has been issued. The Claimant's WV WORKS benefits have been closed for his failure to comply with policy and not closed due to his employment; therefore the decision of the Department not to extend continuous supportive service payments is correct.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the decision of the Department to close the Claimant's WV WORKS benefits and not to extend continuous supportive service payments.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of July 2010.

Eric L. Phillips
State Hearing Officer