



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661
(304) 235-4680, Ext. 2087

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

December 12, 2012

RE: ---- v. WV DHHR
ACTION NO.: 12-BOR-2214

Dear Ms. ----:

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.

If you believe the decision was reached in error, you may appeal. See the attached explanation of Claimant's Recourse.

Sincerely,

State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Ben Samms, Family Support Specialist, WV DHHR, [REDACTED] County Office

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

---- ----,

Claimant,

v.

ACTION NO.: 12-BOR-2214

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This Fair Hearing was convened at the [REDACTED] County office of the WV DHHR in [REDACTED] WV, on November 9, 2012, on a timely appeal filed September 13, 2012.

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

----, Co-Claimant

Ben Samms, Family Support Specialist, Department's Representative

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and member of the Board of Review.

All participants were placed under oath at the beginning of the hearing.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its proposal to impose a third sanction against Claimant's WV WORKS benefit.

V. APPLICABLE POLICY:

WV Income Maintenance Manual §13.9 and §13.9.A, and §24.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Income Maintenance Manual, Chapter 13, Section 9 and 9.A
- D-2 Income Maintenance Manual, Chapter 24, Section 3
- D-3 Income Maintenance Manual, Chapter 24, Section 3, Chart of two-parent work hour requirements
- D-4 DFA-PRC-1, PRC Part 2, signed and dated by Claimant and Family Support Specialist on April 23, 2012
- D-5 DFA-PRC-1, PRC Part 2, signed and dated by Co-Claimant and Family Support Specialist on April 23, 2012
- D-6 Participant Time Sheet for Claimant for month of June 2012
- D-7 Participant Time Sheet for Co-Claimant for month of June 2012
- D-8 Income Maintenance Manual, Chapter 13, Section 10
- D-9 E-mail from ----, ---- instructor
- D-10 Letter from DHHR, ██████████ County office, to Claimant, dated August 18, 2012

Claimant's Exhibits:

- C-1 Application for computer access, user name and password for the ---- home learning computer network
- C-2 Letter from WV DHHR, ██████████ County office, to Claimant, dated July 23, 2012

VII. FINDINGS OF FACT:

- 1) In August of 2012, the WV WORKS unit of the WV DHHR for ██████████ County, WV imposed a third sanction on Claimant's WV WORKS benefit due to her and Co-Claimant's alleged failure to perform the activities listed on their Personal Responsibility Contracts (PRC). (Exhibits D-4 and Exhibit D-5.) Claimant requested a Fair Hearing on September 13, 2012, in order to protest the imposition of this sanction on her WV WORKS benefit.

- 2) Department's Representative stated that Claimant and Co-Claimant were considered to be a two-parent household for WV WORKS purposes. As such, they were obligated to participate in work activities for a total of 150 hours per month. Department's Representative stated that Claimant and Co-Claimant each signed a Personal Responsibility Contract (Exhibits D-4 and D-5) on April 23, 2012, agreeing to participate in a work activity for 75 hours per month. According to the contracts, they were to obtain these hours by working toward their General Equivalency Diplomas (GED) through the ---- program. He stated that for the month of June 2012, Claimant and Co-Claimant each submitted a time sheet (Exhibits D-6 and D-7) indicating that each of them obtained seven (7) hours that month. He added that failing to participate in their work activities for 75 hours each in the month of June 2012 was the reason the sanction was applied.
- 3) Co-Claimant testified that in June 2012, he had told the instructor of the ---- class he and Claimant wanted to obtain their work hours by working toward their GEDs at home using an internet-based home study GED course managed by the ---- program. He stated he and Claimant were given instructions in logging onto the course web site, but when they attempted to do so, their log-in user names and passwords would not work. He stated that he and Claimant went to the ---- program headquarters to inform the instructors there of the difficulty they were having in accessing the course materials, but on each visit they were informed that the lead instructor was on vacation and could not be reached.
- 4) Claimant testified that she has a daughter who has a cleft soft palate. She testified that because of this, she has several service groups who come to her home to provide services for her baby. She stated that because of these weekly home visits and because of the many physicians' appointments to which she must take her daughter, she could not obtain the monthly hours assigned to her.
- 5) Income Maintenance Manual Chapter 13.9 (Exhibit D-16) states as follows:

When a member of [a WV WORKS assistance group] or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC or SSP, a sanction must be imposed unless the Worker determines that good cause exists.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that a WV WORKS cash assistance recipient must participate in the activities listed on the Self-Sufficiency Plan portion of the Personal Responsibility Contract. Policy further dictates that a sanction, or penalty, is imposed upon a WV WORKS assistance group for failure to perform these activities unless the recipient can establish good cause for non-cooperation.

- 2) Department's Representative submitted evidence to indicate Claimant and Co-Claimant agreed to participate in a GED course through the ---- program for a total of 150 hours per month as indicated by a WV WORKS Personal Responsibility Contract signed on April 23, 2012.
- 3) Department's Representative submitted evidence to indicate neither Claimant nor Co-Claimant obtained the required number of work activity hours in June 2012. According to submitted times sheets, they obtained a total of 14 hours for that month.
- 4) Neither Claimant nor Co-Claimant submitted evidence to support their position that the ---- lead teacher was the only individual at the ---- program headquarters who could rectify their problems with accessing the internet GED material. Neither Claimant nor Co-Claimant submitted evidence to indicate they attempted to inform their WV WORKS Family Support Specialist of their difficulties in accessing the course materials.
- 5) Because neither Claimant nor Co-Claimant obtained the required amount of work activity hours for June 2012, the Department acted correctly to impose a third sanction against Claimant's WV WORKS benefit.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose a third sanction against Claimant's WV WORKS benefit.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th day of December 2012.

**Stephen M. Baisden
State Hearing Officer**