



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

Michael J. Lewis, M.D., Ph. D.  
Cabinet Secretary

April 10, 2012

-----  
-----  
-----

Dear ---- ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held March 28, 2012. Your hearing request was based on the Department of Health and Human Resources' denial of WV WORKS benefits.

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 the WV WORKS program is based on current policy and regulations. Some of these regulations state that when a work-eligible individual reapplies for WV WORKS after a previous WV WORKS benefit for that individual is closed for failure to fulfill the participation eligibility requirement, that individual must complete the assigned work hours for five consecutive assigned work days prior to approval (West Virginia Income Maintenance Manual, Chapter 15.7.A).

The information submitted at your hearing revealed that you previously received WV WORKS, did not complete your participation eligibility requirement, and your benefits were terminated. Upon reapplication for WV WORKS, you were required to complete this requirement – five consecutive assigned work days – prior to approval for WV WORKS; you did not complete this requirement a second time, and WV WORKS benefits were denied.

It is the decision of the State Hearing Officer to **uphold** the Department's denial of your WV WORKS application.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Sherri Angus, Family Support Specialist

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

**IN RE:**        ---- ----,

**Claimant,**

**v.**

**ACTION NO.: 12-BOR-436**

**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 concluded on April 9, 2012, 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 March 28, 2012, on a timely appeal, filed January 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  
Sherri Angus, Department representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

All persons offering testimony were placed under oath.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct to deny WV WORKS benefits to the Claimant.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 15.7.A

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Denial letter dated January 17, 2012
- D-2 Hearing request
- D-3 Self-Sufficiency Plan dated January 6, 2012; Referral for Training/Services
- D-4 Case Comments screen prints, entry dates January 10, 2012 through January 19, 2012
- D-5 West Virginia Income Maintenance Manual, Chapter 15.7.A
- D-6 Time Sheet for January 2012
- D-7 Social Summary

**VII. FINDINGS OF FACT:**

- 1) Sherri Angus, a Family Support Specialist for the Department, testified that the Department notified the Claimant (Exhibit D-1) on or about January 17, 2012, that her WV WORKS application would be denied. This notice states, in pertinent part:

ACTION: Your 01/06/12 application for WV WORKS/WVEAP has been DENIED.

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.

- 2) Ms. Angus presented a Self-Sufficiency Plan (Exhibit D-3) signed by the Claimant on January 6, 2012. This plan lists assignments and activities that include "Report to SPOKES at 8:30 am 12:30 pm [*sic*], Attend 68 hrs for month of January," with a listed start date of January 9, 2012. Exhibit D-3 additionally includes the referral from the Department for the Claimant to attend a job preparation program entitled Strategic Planning in Occupational Knowledge for Employment and Success (hereinafter "SPOKES"), her assigned activity.

- 3) Ms. Angus testified that the Claimant previously received WV WORKS benefits that were closed for failure to complete a work requirement, and that a subsequent month of benefits – through the Claimant’s reapplication for WV WORKS – could not be approved until this work requirement was completed.
- 4) Ms. Angus presented the Claimant’s time sheet (Exhibit D-6) for January 2012. This time sheet was kept by the Claimant’s SPOKES supervisor, and indicates the Claimant attended her activity three days in the month of January 2012, and only one of those days for the full four hours required by her Self-Sufficiency Plan.
- 5) The Claimant testified that the time sheet is inaccurate; however, she did not dispute the number of days she attended, or that only one of them was for the full four hours. She testified she was late on her second day at SPOKES and left early on her third day at SPOKES, but disputes the time listed for those days (3.75 hours for January 10, 2012; 2.5 hours for January 11, 2012). The Claimant testified that she obtained permission from her SPOKES instructor on the third day to leave class, and was not allowed to return to class after the third day. Ms. Angus testified that she denied the Claimant’s WV WORKS application after learning that the Claimant did not complete five consecutive, full four-hour days of her assigned activity.
- 6) The West Virginia Income Maintenance Manual, Chapter 15.7.A, states, as follows, in pertinent part (emphasis added):

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 SSP, the WV WORKS benefit is closed after good cause for failure to participate has not been established. **If the Work-Eligible Individual reapplies, he must meet his assigned work hours for 5 consecutive assigned work days before the benefit for the subsequent month is approved.** Benefits are prorated from the date of application. To ensure he is meeting his requirements, the Worker must follow up with the placement on a daily basis during the initial 5-day eligibility period, beginning on the first day assigned.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy for the WV WORKS program requires an individual to complete all assigned hours on five consecutive work days to meet the participation eligibility requirement. When an individual fails to complete this requirement, WV WORKS benefits are closed. Undisputed testimony confirmed that the Claimant did not complete this requirement previously, resulting in the closure of her WV WORKS benefits.
  
- 2) Policy for WV WORKS additionally requires such an individual – upon reapplication for WV WORKS – to complete the same work requirement prior to receipt of a subsequent month of benefits. The Claimant attended three days of her required activity, and only one of those days for all assigned hours. This requirement is outlined on the Self-Sufficiency Plan that the Claimant signed, and supersedes any communication she may have had with her SPOKES instructor. The Department was correct to deny WV WORKS benefits to the Claimant based on a failure to complete her assigned activity.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny WV WORKS benefits to the Claimant.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ Day of April, 2012.**

---

**Todd Thornton**  
**State Hearing Officer**