



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

February 25, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1135

Dear Ms. [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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Barbara Bolinger, Family Support Specialist

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

██████████,

Claimant,

v.

Action No: 15-BOR-1135

**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 convened on February 18, 2015, on an appeal filed January 22, 2015.

The matter before the Hearing Officer arises from the January 12, 2015 proposal by the Respondent to apply a third sanction against Claimant's WV WORKS case resulting in closure of the benefit.

At the hearing, the Respondent appeared by Barbara Bolinger, Family Support Specialist. The Claimant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Student Detail Schedule ██████████ College, Fall 2014-2015
- D-3 Notice letter (3rd sanction), dated January 12, 2015
- D-4 Notice letter (2nd sanction), dated December 11, 2014
- D-5 WV WORKS Personal Responsibility Contract (PRC) and Self-Sufficiency Plan (SSP), signed and dated August 12, 2014

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 Claimant is a recipient and participant of the Department's WV WORKS cash assistance program. As a requirement of the program, the Claimant signed a Personal Responsibility Contract (PRC) on August 12, 2014. Under the terms of her PRC, the Claimant agreed to attend classes as her activity component, and submitted her student schedule for [REDACTED] ([REDACTED]) beginning August 18, 2014 through December 13, 2014. (Exhibits D-2 and D-5). The Claimant also was required by her PRC to submit time sheets by the end of each month showing her activity participation for the month. (Exhibit D-5)
- 2) On December 11, 2014, the Claimant's worker, Barbara Bolinger (Ms. Bolinger), issued notice to the Claimant informing her that a second-level sanction would be applied for her failure to return her (November) timesheet. This notice included a good cause appointment which was scheduled for December 22, 2014. (Exhibit D-4) The Claimant failed to attend the scheduled good cause appointment, and a second-level sanction was applied to the Claimant's WVW benefits.
- 3) The Claimant testified that she was unaware that Ms. Bolinger did not receive her November timesheet, stating that she turned it into the local office, and never received notification of the second-level sanction being placed on her benefits case. The Claimant contends she has had issues in the past with her timesheets being lost.
- 4) On January 12, 2015, Ms. Bolinger issued a notice to the Claimant informing her that a third-level sanction would be applied to her case for her failure to return her (December) timesheet. This notice included a good cause appointment which was scheduled for January 20, 2015. (Exhibit D-3)
- 5) The Claimant contacted Ms. Bolinger on or about January 16, 2015, in an attempt to establish good cause. The Claimant testified that she was not required by the school to continue attending classes because she had completed her on-line course requirements. The Claimant contends that she was unaware she was required to submit a timesheet for December as her classes had ended by November. The Claimant did not contact Ms. Bolinger to make her aware that her classes had ended until the Claimant received notice of the third-level sanction. No good cause was found by Ms. Bolinger.
- 6) Ms. Bolinger testified that the Claimant was aware she had to submit timesheets showing her participation in the activity of attending classes at [REDACTED] from August 18, 2014 through December 13, 2014, as agreed on the PRC, and should have contacted her regarding the early termination of classes.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) §24.1 explains that every parent and other caretaker who is included in a payment and any non-recipient Work-Eligible Individual in

the household has a responsibility to participate in an activity to help prepare for, obtain and maintain gainful employment.

WV IMM §1.25 instructs that failure, without good cause, to adhere to the responsibilities or any task listed on the PRC after signature, results in a sanction being imposed.

WV IMM §13.9 states that when a member of the Assistance Group (AG) does not comply with requirements found on his PRC or SSP, a sanction must be imposed unless the Worker determines that good cause exists. The sanction imposed for a third offense and all subsequent offenses is ineligibility for cash assistance for 3 months. The Worker has considerable discretion in imposing a sanction. (WV IMM §13.10)

DISCUSSION

The Department proposed that the WV WORKS benefits of the Claimant be terminated based on a third-level program sanction for non-compliance with the terms of a contract outlining the program expectations of the Claimant.

The Claimant contended that: 1) she never received notice of a second-level program sanction; 2) she did submit her November timesheet but that the Department lost it as they have on previous occasions; and 3) she was unaware she had to return a December timesheet. However, the Claimant's contentions are unsupported by the evidence. The Claimant did not make any copies of her timesheets, even though she claims to have had past issues with the Department losing her timesheets. The Claimant confirmed that she remains at the same address on the second-level sanction notice, and did receive the third-level program notice sent to the same address. Additionally, the Claimant's contention that she was unaware she needed to submit a December timesheet because her coursework was complete prior to the month of December is not in accordance with the PRC. By submitting her class schedule showing she would be attending classes from August 18, 2014 through December 13, 2014, she had the contractual responsibility to notify her worker of any changes to this schedule, including early completion.

The Claimant failed to meet those program expectations by not submitting timesheets showing she was participating in the agreed activity of attending classes at [REDACTED] from August 18, 2014 through December 13, 2014. Good cause cannot be found for her non-compliance.

Without good cause for a "third or subsequent" instance of PRC non-compliance, the Department's proposal to terminate the Claimant's WV WORKS benefits is correct.

CONCLUSIONS OF LAW

- 1) The Claimant failed to comply with PRC requirements. The Department must apply a sanction if good cause is not met. Because the Claimant did not establish good cause, the Department must sanction the Claimant's WV WORKS benefits.

- 2) The Claimant's WV WORKS case previously had been sanctioned at least two other times. Therefore, the correct sanction is termination of the Claimant's WV WORKS benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's proposal to apply a third level sanction and terminate the Claimant's WV WORKS cash assistance for a period of three (3) months.

ENTERED this 25th day of February 2015.

Lori Woodward, State Hearing Officer