



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

March 18, 2015



RE:            v. WV DHHR  
ACTION NO.: 15-BOR-1292

Dear Mr. 

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: Sarah Megargee, Family Support Specialist

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

[REDACTED]

**Claimant,**

v.

**Action No: 15-BOR-1292**

**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 [REDACTED]. 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 March 12, 2015, on an appeal filed February 11, 2015.

The matter before the Hearing Officer arises from the January 30, 2015 decision 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 Sarah Megargee, Family Support Specialist. Appearing as witness for the Department was Stephanie Dowdy, 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 WV WORKS Personal Responsibility Contract (PRC) and Self-Sufficiency Plan (SSP), signed and dated January 13, 2015
- D-3 Employer Contact Form from January 22 through January 25
- D-4 Handwritten notes of employer contact from Stephanie Dowdy
- D-5 Copies of Employment Applications
- D-6 Screen print of Individual Comments in Claimant's eRAPIDS case from January 20, 2015 through February 25, 2015
- D-7 Notice letter, dated January 30, 2015

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 January 13, 2015. As part of the terms of his PRC, the Claimant agreed to complete 46 hours monthly of job search activities and 82 hours monthly of community service. (Exhibit D-2)
- 2) The Claimant's worker, Stephanie Dowdy (Ms. Dowdy), explained to the Claimant on January 20, 2015, that he needed to return 11 job searches with verifications attached by January 27, 2015. Ms. Dowdy also explained how the Claimant could accomplish this and the consequences of not doing so. (Exhibit D-6)
- 3) The Claimant returned an Employer Contact Form (ECF) on January 27, 2015. He listed eleven employers/companies which he reported contacting from January 22 through January 25. (Exhibit D-3) It is noted that the ECF was incomplete, and failed to have verifications attached as previously instructed by Ms. Dowdy.
- 4) On January 29, 2015, Ms. Dowdy attempted to contact those companies listed on the ECF to verify the Claimant's reported job inquiries. (Exhibit D-4) Ms. Dowdy testified she was only able to get confirmation from one of the listed employers, [REDACTED]. She stated that she contacted four different area [REDACTED] stores, including the ones the Claimant listed on the ECF, without confirmation of a job application submitted by the Claimant. [REDACTED], [REDACTED], and [REDACTED] had no record of a job application submitted by the Claimant. (Exhibit D-4)
- 5) When she was unable to verify the Claimant's job search activity, Ms. Dowdy notified the Claimant by letter dated January 30, 2015, of the proposed third-level sanction to the Claimant's benefit case along with a good cause appointment date scheduled for February 10, 2015. (Exhibit D-7)
- 6) On February 11, 2015, the Claimant presented copies of undated job applications from [REDACTED], [REDACTED], [REDACTED], and copies of instructions from [REDACTED] and [REDACTED] to complete an on-line job application, in an attempt to establish good cause. (Exhibit D-5) Good cause was not established and a third-level sanction was placed on the Claimant's benefit case.
- 7) The Claimant testified that he spoke to those employers/companies he listed on the ECF. He explained that the day after he returned the ECF to his worker, he returned to [REDACTED], [REDACTED], [REDACTED] to fill out the job applications as proof that he did speak to these companies to make job inquiries. He believed by speaking to the employers/companies, he fulfilled his job search activity requirement.

## **APPLICABLE POLICY**

Policy found in §1.25.T, of the West Virginia Income Maintenance Manual (WV IMM), provides that the Personal Responsibility Contract (PRC) form (OFA-PRC-1) is a contract between the adult or emancipated minor members of the WV WORKS AG and the Worker. Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the benefit group. Refusal or other failure, without good cause, to adhere to the self-sufficiency plan (Part 2 of the PRC) results in imposition of a sanction against the benefit group.

WV IMM §1.25.U explains that the Self Sufficiency Plan (SSP) form (DFA-SSP-1) is a negotiated contract between each of the adult or emancipated minor members of the WV WORKS AG and the Worker. The SSP is specific to each participant and is the Self-Sufficiency Plan. It lists the goals, as well as the tasks necessary to accomplish the goals, including specific appointments, assignments and activities for the adult/emancipated minor.

WV IMM §13.9 provides that when a member of the benefit group does not comply with the requirements found on his/her PRC or SSP, a sanction must be imposed unless the worker determines that good cause exists. A third-level sanction results in ineligibility for cash assistance for a period of three (3) months.

WV IMM §13.10 sets forth good cause criteria for failure to meet work requirements or adhere to the PRC. This policy goes on to state that the worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his ability, understands the requirements, and the sanction process. The worker has considerable discretion in imposing a sanction.

## **DISCUSSION**

The Department terminated the WV WORKS benefits of the Claimant based on a program sanction for non-compliance with the terms of his PRC/SSP outlining the program activities needed to fulfill the program expectations of the Claimant.

The Claimant failed to meet those program expectations by failing to complete the necessary job search activity hours for the month of January. Although he was told by his worker that he must make eleven job inquiries by January 27, 2015, and provide verification, he failed to do so. When his worker attempted to verify his listed job search activity, she was only able to verify he made contact with one of the listed companies.

The Claimant contended he inquired about available jobs to those employers/companies listed on the ECF he returned to his worker in January. The Claimant referred to the undated copies of application forms provided to his worker on February 11, 2015, as proof that he went to these places to inquire about job openings listed on the ECF. His proffer that those undated applications he procured the day after he spoke to his worker on February 11, 2015, was proof he actually went to those establishments, is unconvincing.

Although it is a reasonable assumption that making job inquiries without actually filling out a job application would fulfill the terms of the employer contact form, the form was not complete and the Claimant failed to provide any verifications along with the form as he was instructed to do. The verification he attempted to provide by returning undated job applications several weeks later does not establish he actually spoke to anyone at those listed companies. This, along with his worker only being able to independently verify contact of one out of eleven listed companies, established by the preponderance of evidence that the Department acted properly in not finding good cause for the Claimant's SSP non-compliance.

Without good cause for a third or subsequent instance of PRC/SSP non-compliance, the Department's action to terminate the Claimant's WV WORKS benefits was correct.

### **CONCLUSIONS OF LAW**

- 1) The Claimant failed to comply with PRC/SSP 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 decision to apply a third level sanction and terminate the Claimant's WV WORKS cash assistance for a period of three (3) months.

**ENTERED this 18<sup>th</sup> day of March 2015.**

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Lori Woodward, State Hearing Officer