



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

May 26, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1651

Dear Mr. [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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Beverly Ballengee, [REDACTED] DHHR

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

██████████,

Appellant,

v.

Action Number: 15-BOR-1651

**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 was convened on May 21, 2015, on an appeal filed March 24, 2015.

The matter before the Hearing Officer arises from the March 10, 2015, decision by the Respondent to terminate the Appellant's WV WORKS benefits due to the imposition of a third sanction.

At the hearing, the Respondent appeared by Beverly Ballengee, Family Support Supervisor. Appearing as a witness for the Respondent was Michelle Gay, Family Support Specialist. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Scheduling Order

D-2 Hearing/Grievance Request Notification

D-3 Notice of Decision dated March 10, 2015

D-4 Personal Responsibilities Contract/Self-Sufficiency Plans for the Appellant and ██████████

D-5 WV Income Maintenance Manual §13.9 and 24.4 (excerpts)

D-6 Department's Summary

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 Appellant and his cohabiter, [REDACTED], applied for WV WORKS benefits on February 9, 2015.
- 2) Ms. [REDACTED] work activity (D-4) for participation in the WV WORKS program was to attend SPOKES classes, a job-readiness course, for thirty-five (35) hours per week.
- 3) The Department was notified that Ms. [REDACTED] failed to attend any SPOKES classes in March 2015.
- 4) A good cause appointment was conducted with Ms. [REDACTED] on March 24, 2015. Good cause for her failure to attend the assigned work activity was not established, and a third sanction was imposed against the Appellant's WV WORKS benefits.

APPLICABLE POLICY

WV Income Maintenance Manual §13.9A states that when a member of the Assistance Group (AG) or non-recipient Work-Eligible Individual does not comply with requirements found on his Personal Responsibilities Contract (PRC) or Self-Sufficiency Plan (SSP), a sanction must be imposed unless the Worker determines that good cause exists.

Sanctions are applied in the form of benefit reductions and, for the 3rd or subsequent offense, termination of benefits.

DISCUSSION

The Appellant contended that transportation issues and inclement weather prevented Ms. [REDACTED] from attending SPOKES classes. The Appellant testified that he was under the impression that in notifying the SPOKES instructor of these issues, that the Department was notified as well.

The Appellant did not dispute that Ms. [REDACTED] failed to attend SPOKES classes in March 2015 or that the Department was not notified of the transportation issues directly.

CONCLUSION OF LAW

[REDACTED] failed to fulfill her assigned work activity as stipulated in her Personal Responsibilities Contract. While the Appellant argued that transportation issues and inclement

weather prevented Ms. [REDACTED] from attending her work activity, the Department was not notified of these issues, and therefore good cause cannot be established.

DECISION

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

ENTERED this 26th day of May 2015

**Kristi Logan
State Hearing Officer**