



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

May 6, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1704

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,

Donna L. Toler
State Hearing Officer
Member, State Board of Review

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

cc: Christina Brown, Family Support Specialist

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

████████████████████,

Claimant,

v.

Action No: 15-BOR-1704

**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 April 29, 2015, on an appeal filed March 31, 2015.

The matter before the Hearing Officer arises from the March 10, 2015 decision by the Respondent to apply a third-level sanction to the Claimant's WV WORKS/WV EAP for failure to meet the terms of the Personal Responsibility Contract and/or Self-Sufficiency Plan.

At the hearing, the Respondent appeared by Christina Brown, Family Support Specialist. The Claimant appeared *pro se*. Appearing as a witness for the Claimant was ██████████, the Claimant's friend. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV WORKS Personal Responsibility Contract (PRC) and WV WORKS Self-Sufficiency Plan (SSP), dated February 6, 2015
- D-2 Case Comments computer screen print, dated March 9, 2015 through April 1, 2015
- D-3 Individual Comments computer screen print, dated February 6, 2015
- D-4 Notice of Decision, dated March 10, 2015
- D-5 Receptionist Log Search computer screen print, dated March 1, 2015 through March 20, 2015
- D-6 Correspondence from DHHR ██████████ to Claimant, dated March 10, 2015
- D-7 West Virginia Income Maintenance Manual Policy §§1.25, 13.9, 24.4, 1.9 and 13.10

Claimant's Exhibits:

None

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 was a recipient and participant in the Department's WV WORKS cash assistance program. As a requirement of the program, the Claimant signed a Personal Responsibility Contract and Self-Sufficiency Plan (PRC/SSP) wherein she agreed to submit her time sheets on the first of every month and to return her employer contact forms every Friday, beginning on February 6, 2015. (Exhibit D-1)
- 2) The Department's representative stated that because the Claimant failed to return her employer contact forms and time sheets as agreed upon on the PRC/SSP, a third-level sanction was imposed, to begin on April 1, 2015. (Exhibits D-4 and D-6)
- 3) The Claimant admitted she did not return the employer forms or time sheets as agreed upon in the PRC/SSP, but contended that she had good cause for not doing so. The Claimant testified that she is medically treated for anxiety and did not realize she would be unable to comply with the terms of the PRC/SSP at the time she signed them. The Claimant reported that she discussed her anxiety symptoms with her worker at the time she signed the PRC/SSP. The Claimant testified that she did return her time sheets on March 6, 2015, after the established deadline. The Claimant testified that she reported to the [REDACTED] Department of Health and Human Resources building in [REDACTED] West Virginia, and was instructed to leave her timesheets in the "grey box". The Claimant added that she verified that she was to leave the time sheets in the box with a Department worker several times before placing it in the box.
- 4) The Department's representative testified that she completed a query of the receptionist's log, used to log all information received in the "grey box" from March 1, 2015 through March 20, 2015. The Department's representative reported that the query did not include the Claimant's time sheets or employer forms. (Exhibit D-5)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) §1.25 instructs that failure, without good cause, to adhere to the responsibilities or any task listed on the PRC/SSP after signature results in a sanction being imposed.

WV IMM §13.10, requires that all mandatory Work-Eligible individuals be placed in a relevant and current component for tracking and monitoring purposes on approval date. The participant

MUST remain in that component until either the case is closed or the Case Manager and participant agree to change the component (emphasis added). WV IMM §13.10 also sets forth reasons for granting good cause due to life events and/or problems and reads, “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.” Failure or refusal to comply without good cause results in the imposition of a sanction. When a letter is mailed scheduling the good cause interview, the Worker must allow no less than seven (7) calendar days. The period begins the day following the date the letter is requested in RAPIDS.

WV IMM §13.9 indicates the sanction imposed for a third offense (and all subsequent offenses) is ineligibility for cash assistance for a period of three (3) months.

DISCUSSION

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

The Claimant failed to meet the program expectations outlined on her PRC/SSP by not returning her employer forms and time sheets by the agreed upon deadlines. The Claimant testified that she was unable to provide the information because of symptoms related to her medically treated anxiety. However, the Claimant did not have a change in her condition after signing the PRC/SSP and admitted that she discussed her medical condition to the worker prior to entering into the contractual agreement that she would return her employer forms weekly on Fridays, and her timesheets by the first of each month. Good cause was not established.

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 on two other occasions. Therefore, the correct penalty for a third-level 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/WV EAP benefits, beginning in April 2015.

ENTERED this ____ day of May 2015.

**Donna L. Toler
State Hearing Officer**