



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

June 23, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2131

Dear [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 Official 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 Official
Member, State Board of Review

Encl: Appellant'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**

██████████,

Appellant,

v.

Action No.: 15-BOR-2131

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICIAL

INTRODUCTION

This is the decision of the State Hearing Official 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 June 16, 2015, on an appeal filed May 26, 2015.

The matter before the Hearing Official arises from the May 19, 2015 proposal by the Respondent to apply a third sanction against Appellant's WV WORKS benefits.

At the hearing, the Respondent appeared by Sarah Megargee, 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 Hearing Summary
- D-2 WV WORKS Personal Responsibility Contract (PRC) and Self-Sufficiency Plan (SSP), dated May 1, 2015
- D-3 Printout of Individual Comments from April 9, 2015 through May 25, 2015 and printout of Case Comments from May 1, 2015 through May 27, 2015
- D-4 May 2015 Participant Time Sheet (SPOKES)
- D-5 Notice of negative action, dated May 19, 2015
- D-6 New Employment Verification form, signed May 30, 2015, date stamped received by the local office on June 11, 2015
- D-7 May 2015 Participant Time Sheet (Employment), date stamped received by the local office on June 11, 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 Official sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant was required to participate in a program activity 85 hours a month as part of being a recipient of the Department's WV WORKS cash assistance program. On May 1, 2015, the Appellant agreed to attend the SPOKES program as part of her program activity. (Exhibit D-2)
- 2) On May 20, 2015, the Appellant interviewed for employment at [REDACTED] and began working the following day on May 21, 2015. (Exhibits D-6 and D-7)
- 3) The Appellant informed her Worker on May 26, 2015 of her new employment. (Exhibit D-3)
- 4) The Appellant returned her New Employment Verification form (Exhibit D-6) and Time Sheet for May 2015 (Exhibit D-7) to her worker.
- 5) The Appellant had a combined program activity of over 85 hours for the month of May, and was in compliance with the terms of the program. (Exhibits D-4 and D-7)
- 6) The Department representative conceded that the Appellant had fulfilled her 85 hour program activity requirement for May 2015 and that the third sanction should have been lifted.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) §24.1 explains that WV WORKS expects parents and other caretaker relatives to support their own dependent children and those in their care. 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. 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.

IMM §24.3.A, requires that single parents with a child under the age of six (6) must meet a minimum work of 85 hours/month or 20 hours/week. The parent may be required to participate more than 85 hours on their SSP, or may volunteer to participate more than the required hours, but no sanction may be imposed as long as the minimum level is met.

WV IMM §13.10, 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.”

DISCUSSION

The Department conceded that the third sanction should have been lifted as the Appellant meet her May 2015 program hours when combining her SPOKES participation and new employment for May 2015. Department’s action to apply a third sanction and terminate the Appellant’s WV WORKS benefits was in error.

CONCLUSION OF LAW

The Appellant met her required participation hours for the month of May 2015 when combining her SPOKES and employment hours. Therefore, the Department applied a third sanction and terminated the Appellant’s WV WORKS benefits in error.

DECISION

It is the decision of the State Hearing Official to **REVERSE** the Department’s proposal to apply a third level sanction and terminate the Appellant’s WV WORKS cash assistance

ENTERED this 23rd day of June 2015.

Lori Woodward, State Hearing Official