



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

September 17, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2672

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: Pamela Mills, Family Support Supervisor
Sarah Megargee, Family Support Specialist

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

██████████ AND ██████████,

Appellants,

v.

Action No.: 15-BOR-2672

**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 ██████████ ██████████ and ██████████. 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 August 27, 2015*, on an appeal filed July 17, 2015.

*Note, by agreement of the parties and the hearing officer, the hearing was held open until September 15, 2015, to allow possible settlement of the matter.

The matter before the Hearing Official arises from the July 6, 2015 decision by the Respondent to apply a third sanction against Appellants' WV WORKS benefits.

At the hearing, the Respondent appeared by Pamela Mills, Family Support Supervisor. The Appellants appeared by ██████████, *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 by ██████████ and dated June 22, 2015
- D-3 Printout of Individual Comments from June 22, 2015 through August 14, 2015
- D-4 Notice of negative action, dated July 6, 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) On June 22, 2015, the Appellant, [REDACTED] (Appellant [REDACTED]) signed a Self-Sufficiency Plan (SSP). As part of his SSP, he agreed to attend Strategic Planning in Occupational Knowledge for Employment Services (SPOKES) classes Monday through Friday from 8:30 a.m. to 3:00 p.m. until the completion of the program, attending 150 hours/month or 30 hours/week, beginning June 29, 2015. (Exhibit D-2)
- 2) When beginning an assigned program activity, WV WORKS program participants must complete his or her program activity requirement for five consecutive days.
- 3) On June 29, 2015 (which was a Monday), Appellant [REDACTED] took the Test of Adult Basic Education (TABE) test at 8:30 a.m. and finished at 12:45 p.m. He did not return to SPOKES class after that time, which he was required to do.
- 4) The following day, the Appellant [REDACTED] had a scheduled meeting with his probation officer which lasted fifteen to twenty minutes. He did not return to SPOKES class after that time, which he was required to do.
- 5) Friday, July 3, 2015, was an excused holiday.
- 6) On July 6, 2015, the Appellants were notified of a third sanction being placed on their Assistance Group (AG) with a good cause appointment scheduled for July 16, 2015.
- 7) The Appellants attended the good cause appointment. Good cause was not found.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) §15.7 stipulates that a program participant must begin his work activity as scheduled and complete all assigned hours for 5 consecutive assigned work days to meet his participation eligibility requirement. If he fails to participate as specified on his SSP, the WV WORKS benefit is closed after good cause for failure to participate has not been established.

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 representative, Pamela Mills (Ms. Mills), testified that Appellant [REDACTED] was given a six hour credit for the holiday which fell on July 3, in addition to time allowance for his meeting with his probation officer. However, he was required to return to SPOKES class

after his TABE testing and after his meeting with his probation officer (which only took approximately 20 minutes).

Co-Appellant, [REDACTED] proffer that Appellant [REDACTED] was informed by the SPOKES personnel that he could go home after the TABE testing, in addition to being excused for the entire day for a twenty minute meeting with his parole officer, was unconvincing. Appellant [REDACTED] failed to appear for the hearing.

Policy requires that a WV WORKS program participant begin his work activity as scheduled and complete all assigned hours for five consecutive days in order to meet his participation eligibility requirement. Appellant [REDACTED] failed to do so. The Department acted correctly in applying a third sanction to the Appellant's WV WORKS program.

CONCLUSIONS OF LAW

- 1) [REDACTED] did not complete his work activity as scheduled and complete all assigned hours for five consecutive days.
- 2) [REDACTED] did not meet his participation eligibility requirement.
- 3) The Department was correct in applying a third sanction and terminating the Appellants' WV WORKS benefits.

DECISION

It is the decision of the State Hearing Official to **UPHOLD** the Department's decision to apply a third level sanction and terminate the Appellants' WV WORKS benefits.

ENTERED this 17th day of September 2015.

Lori Woodward, State Hearing Official