



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

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

April 6, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1310/17-BOR-1311

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: Dana Daugherty, [REDACTED] County DHHR

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

████████████████████,

Appellant,

v.

**Action Number: 17-BOR-1310 SNAP
17-BOR-1311 WVW**

**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 April 4, 2017, on an appeal filed February 21, 2017.

The matter before the Hearing Officer arises from the February 6, 2017, decision by the Respondent to terminate the Appellant's WV WORKS benefits and reduce Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Dana Daugherty, 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 WV WORKS Self-Sufficiency Plan signed December 14, 2016
- D-2 Participation Worksheets for December 2016, January 2017, and February 2017; Discharge Instructions from ██████████ dated January 11, 2017, and Work/School Excuse dated January 19, 2017
- D-3 WV WORKS 3rd and Subsequent Sanction Summary
- D-4 Email Approving Sanction dated February 6, 2017
- D-5 Notice of Decision dated February 6, 2017
- D-6 West Virginia Income Maintenance Manual §13.9(A)
- D-7 West Virginia Income Maintenance Manual §13.9(E)
- D-8 West Virginia Income Maintenance Manual §10.4(B)(2)
- D-9 West Virginia Income Maintenance Manual §10.4

- D-10 West Virginia Income Maintenance Manual §13.6(B)
D-11 West Virginia Income Maintenance Manual §13.11(A)

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 was a recipient of WV WORKS cash assistance benefits.
- 2) The Appellant signed a Self-Sufficiency Plan (SSP) on December 14, 2016, agreeing to attend SPOKES classes thirty (30) hours per week as his assigned work activity (Exhibit D-1).
- 3) The Appellant had three (3) unexcused absences from SPOKES classes in December 2016 (Exhibit D-2).
- 4) The Respondent terminated the Appellant's WV WORKS benefits on January 5, 2017, as the Appellant had not attended his assigned work activity for five (5) consecutive days.
- 5) The Appellant attended 105.75 hours of SPOKES classes by January 31, 2017 and WV WORKS benefits for February 2017 were reinstated (Exhibit D-2).
- 6) The Appellant attended a total of 12.5 hours out of the required 128 hours per month of SPOKES classes in February 2017 (Exhibit D-2).
- 7) The Respondent notified the Appellant that a WV WORKS sanction was proposed and a good cause appointment was scheduled for February 14, 2017 (Exhibit D-5).
- 8) The Appellant did not attend the good cause appointment, and a sanction was imposed against the Appellant's WV WORKS benefits.
- 9) The Appellant's wife had four (4) previous WV WORKS sanctions.
- 10) The Appellant's WV WORKS benefits were terminated effective March 1, 2017.
- 11) A SNAP work requirement penalty was placed against the Appellant reducing the monthly SNAP allotment from \$511 to \$387, effective March 1, 2017.
- 12) The Appellant contested that his wife's previous sanctions were counted against him, and the reduction in SNAP benefits.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §§13.11 and 13.11(A) states that a WV WORKS sanction may result in application of a SNAP penalty when the WV WORKS sanction results from failure to comply with a requirement related to an activity which is listed in Sections 24.6 - 24.13 of policy. Even though the WV WORKS check amount decreases due to the sanction, SNAP benefits must not increase. Only the individual who causes the WV WORKS sanction to be imposed may be subject to a SNAP penalty.

The appropriate SNAP penalties found in Section 13.6 are applied to a WV WORKS recipient when:

- The individual is exempt from SNAP work requirements only because he is subject to and complying with a WV WORKS work requirement and
- The individual failed to comply with a requirement related to an activity which is listed in Sections 24.6 - 24.13.

Once the penalty begins, the full SNAP penalty period must be served, even if the WV WORKS benefit is closed. The penalty is only lifted if:

- The individual is receiving WV WORKS and becomes exempt from WV WORKS work requirements; or
- The individual meets one of the exemptions listed in policy, except for receipt of WV WORKS.

West Virginia Income Maintenance Manual §13.6(B) states a WV WORKS recipient who is exempt from SNAP work requirements only because he is subject to and complying with a WV WORKS requirement in Sections 24.6 - 24.13 is subject to the following penalties when he does not comply. A WV WORKS offense that involves a work requirement which results in application of a WV WORKS sanction may also result in a SNAP penalty.

- First violation: The individual is removed from the AG until the individual reports a change that makes him exempt according to Section 13.2 for some reason other than UCI-related activities or for a maximum of 3 months. Following the end of the 1st penalty, the Worker must add the individual to the AG, if the individual is otherwise eligible.
- Second violation: The individual is removed from the AG until the individual reports a change that makes him exempt according to Section 13.2(A)(2) for some reason other than UCI-related activities or for a maximum of an additional 6 months. Following the end of the second penalty, the Worker must add the individual to the AG, if the individual is otherwise eligible.
- Third and subsequent violations: The individual is removed from the AG until the individual reports a change that makes him exempt according to Section 13.2(A)(2) for some reason other than UCI-related activities or for a maximum of an additional 12 months. Following the end of the third penalty, the Worker must add the individual to the AG, if the individual is otherwise eligible.

West Virginia Income Maintenance Manual §§13.9(A) and 13.9(E) states when a member of the Assistance Group or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC or SSP, a sanction must be imposed unless the Worker determines that good cause exists. The amount of the sanction is a fixed amount and is determined as follows:

- 1st Offense = Ineligibility for cash assistance for 1 month;
- 2nd Offense = Ineligibility for cash assistance for 6 months;
- 3rd and All Subsequent Offences = Ineligibility for cash assistance for 12 months.

NOTE: When the person whose actions cause a sanction to be imposed becomes an SSI recipient prior to imposition of the sanction, no sanction is imposed. In addition, the offense is not counted when determining the level of subsequent sanctions. If the family has already been sanctioned when the offender becomes an SSI recipient, the sanction is lifted as soon as possible considering RAPIDS deadlines. The partial sanction already served counts when determining the level of the subsequent sanctions.

WV WORKS sanctions are applied to all Work-Eligible members of a WV WORKS case, not only to the individual who causes the sanction. Therefore, the following information is used to determine the number of sanctions when the sanctioned WV WORKS case separates into 2 or more cases or when 1 or more household member leaves the case.

- Each adult and emancipated minor included in the same WV WORKS AG, and each non-recipient Work-Eligible Individual, is assigned one sanction for each time the case is sanctioned. Sanctions are not assigned to children.
- When an adult or emancipated minor leaves the home, he takes his assigned sanctions with him. Those adults and emancipated minors remaining in the home retain their assigned sanctions.
- When a Work-Eligible adult or emancipated minor leaves the home of one WV WORKS case and joins another one, all members of the new AG and any non-recipient Work-Eligible Individuals are assigned the same number of sanctions. This number is determined by assigning each adult/emancipated minor the highest number of sanctions assigned to any one of the adults/emancipated minors in the new AG or any non-recipient Work-Eligible Individuals.

DISCUSSION

Pursuant to policy, when a WV WORKS recipient fails to comply with the requirement found on the Self-Sufficiency Plan, a sanction is imposed unless good cause is established. The Appellant failed to attend SPOKES classes 30 hours per week as agreed on his Self-Sufficiency Plan, and did not provide good cause for his continued absences. The Respondent placed a sanction against the Appellant and closed the WV WORKS benefit.

The Appellant contended that this is his first WV WORKS sanction, therefore the benefit should not be closed for twelve (12) months. The Appellant argued that his wife's previous sanctions that were incurred prior to their marriage should not be counted against him. Policy stipulates that WV WORKS sanctions are applied to all adult members of the Assistance Group and are used to determine the number of sanctions when the sanctioned WV WORKS case separates into 2 or more cases or when 1 or more household member leaves the case. When a sanctioned adult WV WORKS recipient joins a new Assistance Group, the sanction and the number of previous sanctions, is assigned to the new Assistance Group. Therefore, the Appellant's wife's previous sanctions are assigned to the Appellant as well. The Respondent was correct to assign a fifth

sanction to the Appellant's WV WORKS Assistance Group, thereby terminating the benefit for twelve months.

The Appellant contested the reduction in his monthly SNAP allotment. Pursuant to policy, a work requirement penalty is imposed against a WV WORKS recipient who fails to comply with the work requirements of the WV WORKS program. The Appellant failed to attend SPOKES classes as required by the Self-Sufficiency Plan, and incurred a SNAP work requirement penalty as a result. The Appellant will be excluded in participation in SNAP for the duration of the penalty.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, a sanction is imposed against a WV WORKS recipient who fails to comply with the requirements found on the Self-Sufficiency Plan.
- 2) Third and all subsequent WV WORKS sanctions close the benefit for twelve months.
- 3) SNAP work requirement penalties are imposed against WV WORKS recipients who fail to adhere to the work requirements of the WV WORKS program.
- 4) The Appellant did not attend the required number of hours of SPOKES classes without good cause as found on his Self-Sufficiency Plan.
- 5) The Appellant's wife incurred four (4) WV WORKS sanctions previously, which by policy were attributed to the Appellant.
- 6) The Respondent correctly followed policy in assigning a fifth WV WORKS sanction and SNAP work requirement penalty against the Appellant.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's WV WORKS and reduce Supplemental Nutrition Assistance Program benefits.

ENTERED this 6th day of April 2017

**Kristi Logan
State Hearing Officer**