



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
PO Box 1247
Martinsburg, WV 25402

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

January 31, 2017

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1032

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 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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Joseph Holliday, WV DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1032

**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 January 26, 2017, on an appeal filed January 6, 2017.

The matter before the Hearing Officer arises from the December 9, 2016 decision by the Respondent to deny the Appellant's WVWORKS/WVEAP post-employment services benefits.

At the hearing, the Respondent appeared by Joseph Holliday, Family Support Specialist. The Appellant appeared *pro se* and testified upon her own behalf. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Faxed verification from ██████████, dated December 8, 2016
- D-2 Electronic mail (email) from the Appellant to ██████████, dated November 21, 2016
- D-3 Employment Statement, dated November 28, 2016
- D-4 WV WORKS Post-Employment Services Options form, dated November 28, 2016
- D-5 Screen print of Case Benefit Summary from the Appellant's eRAPIDS case
- D-6 Screen print of Participation Hours from the Appellant's eRAPIDS case
- D-7 Notice of denial for Employment Assistance Program, dated December 9, 2016

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 participant in the WV WORKS cash assistance program.
- 2) The Appellant entered into a contract with her ██████ County, West Virginia caseworker, agreeing to meet her required 128 monthly participation hours for program eligibility by attending classes at ██████ beginning in October 2016.
- 3) The Appellant did not begin classes at ██████ as scheduled.
- 4) In November 2016, the Appellant moved to ██████ County, West Virginia, and had her WV WORKS case transferred.
- 5) The Department closed the Appellant's WV WORKS benefits case in November 2016 for failure to meet her contracted participation hours in October and November 2016.
- 6) On November 28, 2016, the Appellant submitted an Employment Statement, showing she was newly employed as of that date. (Exhibit D-3)
- 7) The Appellant was required to meet 128 hours a month in order to fulfill participation hours for employment assistance payments. The employment verification form shows that the Appellant would not have met the required number of employment hours with anticipated hours of 10 to 22 hours per week. (Exhibit D-3)
- 8) The Appellant signed a WV WORKS Post-Employment Service Option form requesting employment assistance payments. (Exhibit D-4)

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 §13.9 explains that when a member of the AG 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.

To be considered for future benefits, the individual will be required to re-apply for WV WORKS benefits to again receive them.

IMM §24.16 states that beginning January 2008, Work-Eligible Individuals may choose between 2 employment support options any time WV WORKS cash assistance is closed and the participant reports employment within 10 days of the employment begin date. The closure may be at the client's request or may be due to excess income, but the participant must be employed the required number of hours. (Emphasis added). When the client accepts employment and the WV WORKS benefit is closed, the Worker advises the client regarding the benefits of each option and the participant chooses the one best suited to the needs of his family. The participant signs the WV WORKS Post-Employment Services Option form, DFA-WVW-15, to document the decision. The participant has 30 days from the date of closure to sign the DFA-WVW-15 to document his decision. The participant is ineligible to receive either option if the form is not returned in this time frame or if the employment is not reported timely. The Case Manager must note which option the individual has chosen in Work Programs comments. The participant receives 1 copy of the form and another is placed into the case record. This participant's decision is binding for the post-employment period. Both options may receive support services and bonuses.

Option 2 – This option is the West Virginia Employment Assistance Program (EAP). This program enables the employed former WV WORKS recipient to continue to receive the TANF payment he received prior to becoming employed by use of a 100% earned income disregard for the EAP period. The family must elect to receive the Employment Assistance payment instead of continued support service payments. Participation hours for this employment may be projected for up to 6 months by using either pay stubs or a written statement from the employer. If it is apparent that the hours may vary substantially, the EAP participant must provide a time sheet or pay stubs each month to verify the hours. A PRC or SSP is not required for the post-employment period.

When the AG is closed due to imposition of a sanction, no continued support service payments are issued. Because the participant was not employed at the time the benefits ended, he is not eligible for either employment option even if he later becomes employed during the continuation of services period. When there is no break in receipt of benefits, such as closures due to a late review or during a good cause period and the individual reports employment, he may still receive a continuation of services period.

DISCUSSION

The Appellant did not fulfill her contract to begin attending classes at [REDACTED] in order to meet her participation requirement for her WV WORKS benefits. This is undisputed. The Appellant proffered that she was unable to attend [REDACTED] because she was ineligible for funding, and that she was unable to contact her caseworker to discuss this with her. The Appellant's testimony is questionable as it is in direct contrast with the November 21, 2016 email, which she verified was sent by her to her new caseworker, Barbara Bolinger. In this email, she refers to the "contract" (PRC) as including verification she was enrolled full time at [REDACTED] beginning on October 3, and offers to forward her schedule and enrollment letter to the new caseworker. The Appellant further states that, "But then beginning Dec. 5, I start at [REDACTED] as I will no longer receive funding for another Associates Degree at [REDACTED]. It is apparent that the Appellant is inferring she was still enrolled and attending classes

at [REDACTED] at the time of this November 21, 2016 email. It is further noted that the Appellant did acknowledge receiving a closure letter for her TANF benefits ending November 30, 2016, and that she missed a previous appointment with her caseworker due to illness in this email.

The Appellant was required to meet 128 hours a month in order to fulfill monthly participation hours for continued benefits. The employment verification form shows that the Appellant would not have met the required number of employment hours with the anticipated hours of 10 to 22 hours per week.

As the Appellant's WV WORKS benefits closed in November due to a sanction being placed on her benefits, she was ineligible to receive employment assistance payments. Additionally, even if she were found eligible for post-employment service benefits, she would not have met the required number of employment hours per month evidenced by the employment verification she returned to her caseworker.

CONCLUSIONS OF LAW

- 1) The Appellant did not fulfill her required 128 participation hours for October and November 2016 for her WV WORKS program benefits.
- 2) The Appellant's WV WORKS benefits closed in November 2016.
- 3) When an assistance group is closed due to imposition of a sanction, no continued support service payments are issued.
- 4) The Appellant was ineligible for participation in WV WORKS employment assistance payments.
- 5) The Appellant would not have met the required monthly employment hours for EAP benefits.
- 6) The Respondent correctly denied the Appellant's application for WV WORKS post-employment services.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny the Appellant continued post-employment support services.

ENTERED this 31st day of January 2017.

Lori Woodward, State Hearing Officer