



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

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

February 24, 2017

[REDACTED]

RE: [REDACTED] v WV DHHR
BOR ACTION NO.: 17-BOR-1066

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,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

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

cc: Robert Meade, Family Support Specialist

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

██████████,

Appellant,

v.

Action No: 17-BOR-1066

**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 February 22, 2017, on an appeal filed January 13, 2017.

The matter before the Hearing Officer arises from the December 13, 2016 decision by the Respondent to apply a second sanction and close the Appellant's West Virginia Works benefits.

At the hearing, the Respondent appeared by Robert Meade, 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 Notice of imposed second-level WV WORKS sanction, dated December 13, 2016
- D-2 West Virginia Income Maintenance Manual Policy §§ 2.1, 10.4, and 13.9
- D-3 Case Summary and Benefit Summary computer screen print, dated January 1, 2016 through December 1, 2016
- D-4 Income Maintenance/Family Support office appointment letter, dated November 2, 2016
- D-5 Good Cause office appointment letters, dated December 12, 2016 and January 17, 2017
- D-6 Personal Responsibility Contract (PRC) and Self-Sufficiency Plan (SSP), dated November 9, 2016
- D-7 Case Comments and Individual Comments computer screen prints, dated June 13, 2016 through January 27, 2017

Appellant'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 Appellant was a recipient and participant in the Department's WV WORKS cash assistance program.
- 2) On November 9, 2016, the Appellant signed a Personal Responsibility Contract (PRC) and Self-Sufficiency Plan (SSP) which instructed her to complete 85 participation hours each month and turn in all timesheets by the 5th day of each month. (D-6)
- 3) On December 12, 2016, the Department mailed the Appellant a notice for a Good Cause appointment scheduled on December 19, 2016, for failure to turn in her November 2016 timesheet. (D-5)
- 4) On December 13, 2016, the Appellant's case worker spoke to the Appellant by phone and notified the Appellant of the scheduled Good Cause appointment and explained a second sanction was being placed on the Appellant's case unless she submitted the November 2016 timesheet. (D-7)
- 5) The Appellant did not attend the scheduled Good Cause appointment on December 19, 2016, and did not submit the November 2016 timesheet. As a result, no Good Cause was given, and a second sanction was imposed. (D-7)

APPLICABLE POLICY

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

WV IMM §1.25.U instructs that the Self Sufficiency Plan (SSP) is a negotiated contract between each of the adult or emancipated minor members of the WV WORKS AG, or non-recipient Work-Eligible Individual(s), and the Worker, as the representative of the Department. The SSP is specific to each participant and is the Self-Sufficiency Plan. It lists the goals, as well as the tasks necessary to accomplish the goals, including specific appointments, assignments and activities for the adult/emancipated minor.

Completion and signature of the SSP form DFA-SSP-1 is required to be completed within 10 days of the initial contact when the client expresses an interest in applying for WV WORKS. The participant and Worker must sign and date the initial Self-Sufficiency Plan and each change or addition when they occur. The signatures indicate their agreement to the initial Self-Sufficiency Plan and subsequent changes. The participant's signature indicates that he understands and accepts the responsibility inherent in the Program.

The Self-Sufficiency Plan is a negotiated contract between the Department and the WV WORKS participant. It is a working document and revisions are made when either the participant or the Worker believes it necessary.

WV IMM §13.9 reads when a member of the WV WORKS AG does not comply with requirements on his or her PRC or SSP, a sanction must be imposed unless the Worker determines that good cause exists.

Sanctions are applied in the form of termination of benefits. The amount of the sanction is a fixated amount and is determined as follows:

1st Offense	Ineligibility for cash assistance for 1 month;
2nd Offense	Ineligibility for cash assistance for 3 months;
3rd Offense	Ineligibility for cash assistance for 6 months; and
4th and Subsequent Offense	Ineligibility for cash assistance for 12 months.

The Division of Family Assistance TANF Policy Unit must approve 3rd and subsequent sanctions.

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. 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.

WV IMM §24.4 outlines the worker's responsibility in developing and maintaining the PRC and SSP. The worker is required to provide the client with written notice of appointments, using an approved appointment form. The appointment notice can be given to the client in person or mailed.

WV IMM 6.3 sets forth timeframes for setting a Good Cause appointment. When a letter scheduling an appointment is mailed, the Department worker must allow no less than seven (7) calendar days. The 7-day period begins the day following the date the letter is requested in the RAPIDS or when a manual letter is sent. If the Good Cause appointment is scheduled for a date prior to the seven (7) days, the participant and worker must agree on the date.

DISCUSSION

The Department contended that because the Appellant failed to turn in her November 2016 timesheet by the 5th day of December 2016, as agreed upon in the SSP, a second sanction should be imposed. The Appellant argued she was unable to follow the timeframe requirement and her case should not be closed.

Policy explains that a worker may impose a sanction due to the failure to adhere to responsibilities and assignments agreed upon on the PRC/SSP. Policy also allows the worker considerable discretion in not only applying the sanction, but also in what is considered good cause. Policy dictates that it is the worker's responsibility to provide the client with written notice of appointments, using an approved appointment form. The appointment notice can be given to the client in person or mailed. Policy requires the Department to schedule Good Cause appointments no less than seven (7) days beginning with the date after the letter is requested in RAPIDS, unless the client and worker verbally agree on a date.

The Appellant testified that she did not turn in her November 2016 timesheet when required, because she did not know who should sign the form to verify her participation. She stated she asked her instructors and counselor at her activity, but none of them knew who should sign the timesheet. She stated she was eventually able to get her timesheet signed, but she could not remember when she turned it in to her worker. She initially stated she was unable to get the timesheet completed to submit it by December 5th, 2016, but she later stated she submitted the November 2016 timesheet in November. The Appellant also stated the Good Cause appointment letter was not mailed to her. She stated it was mailed to a friend's address.

The Department's representative testified that as of January 2017, the Department has not received a November or December 2016 timesheet from the Appellant. He also stated that the Good Cause appointment was mailed to the Appellant's authorized representative as well as the Appellant. Additionally, the Appellant spoke to her case worker by phone and verbally discussed the Good Cause appointment.

The Appellant's testimony is not convincing as she made contradicting statements on when and if she submitted the November 2016 timesheet. Evidence and testimony presented at the hearing indicates the Appellant did not comply with the requirements of her SSP, and the Department was correct in imposing a second sanction.

CONCLUSION OF LAW

Because the Appellant did not follow the requirements on her SSP and turn in her November 2016 timesheet by December 5, 2016, the Department was correct in its decision to impose a second sanction.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to impose a second sanction on the Appellant's WV WORKS benefits.

ENTERED this 24th day of February 2017.

Natasha Jemerison
State Hearing Officer