



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 27, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1592

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: James Elmore, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1592

**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 26, 2017, on an appeal filed March 31, 2017.

The matter before the Hearing Officer arises from the March 16, 2017, decision by the Respondent to terminate the Appellant's WV WORKS cash assistance benefits.

At the hearing, the Respondent appeared by James Elmore, 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 Summary

D-2 WV WORKS Self-Sufficiency Plan dated January 11, 2016

D-3 Participant Time Sheet for January 2017, Doctor's Excuse from ██████████, M.D., Appointment Reminder for January 24, 2017, and copies of Hospital Identification Bracelets for dates of service January 16, 2017 and January 24, 2017

D-4 Participant Time Sheet for February 2017, Hospital Discharge Instructions dated February 17, 2017, Appointment Reminders dated January 27, 2017, and January 31, 2017; and copies of Hospital Identification Bracelets for dates of service February 15, 2017, February 17, 2017, and February 23, 2017

D-5 Participant Time Sheet for March 2017

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 January 11, 2016, agreeing to attend Adult Basic Education classes at [REDACTED] for 20 hours per week or 85 hours per month (Exhibit D-2).
- 3) The Appellant attended class for 15 minutes in January 2017, but was given credit for 114 hours of coursework completed at home (Exhibit D-3).
- 4) The Appellant provided an excuse from [REDACTED], M.D., excusing her from classes from January 3, 2017 through January 31, 2017 (Exhibit D-3).
- 5) The Appellant attended class on February 28, 2017, for 2 hours and 36 minutes. The Appellant did not attend class any other days in February 2017, and was not given credit for coursework completed at home (Exhibit D-4).
- 6) The Appellant had pre-admission testing at [REDACTED] on February 15, 2017, had outpatient surgery on February 17, 2017, and had a doctor's appointment on February 23, 2017 (Exhibit D-4).
- 7) A sanction was imposed against the Appellant on or around March 15, 2017, when the Appellant had not attended any classes in March 2017.
- 8) The Appellant returned to class on March 15, 2017, and attended a total of 53 hours. She was given 10 hours of credit for coursework completed at home for a total of 63 for the month (Exhibit D-5).
- 9) The sanction remained for the Appellant's failure to complete her assigned work activity of attending Adult Basic Education classes for 85 hours a month.
- 10) The Appellant's WV WORKS cash assistance benefits were terminated effective March 31, 2017, as this is the Appellant's fourth sanction.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §24.3(A)(1)(a) states that each adult and emancipated minor who receives WV WORKS benefits must meet a work requirement at a minimum rate of

participation. A single Work-Eligible parent with a child under age 6 meets the work participation requirement by participating 85 hours/month or 20 hours/week.

West Virginia Income Maintenance Manual §24.3(B) states that workers must determine whether absences from participation in a work activity are excused or unexcused. Participation for Work-Eligible Individuals is calculated on the actual hours of attendance or participation each month and converted to a weekly average. All missed time whether excused or unexcused, must be made up within the month in which it is missed. When it is impossible to make up time missed, the Worker must decide if the absence is excused or unexcused. Excused absences of up to 16 hours/month, not to exceed a maximum of 80 hours in the 12-month period, including the current and the preceding 11 months, may be counted as hours worked in that month. The hours worked include the excused hours when participation did not actually occur. An excused absence includes illness or other good cause which prevented participation. It is the responsibility of the worker to determine if the absence is excused or unexcused based on contact with the employer/contractor and client documentation. A determination of good cause may only be made by the WV WORKS staff.

West Virginia Income Maintenance Manual §13.9(A) 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.

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 Adult Basic Education classes 20 hours per week or 85 hours per month as agreed on her Self-Sufficiency Plan. The Respondent placed a sanction against the Appellant and closed the WV WORKS benefit.

The Appellant contested the number of hours counted on her Participation Time Sheet for class attendance. The Appellant contended that something was wrong with school's time clock, and she kept getting logged out in error. The Appellant also testified that she had to leave class when her children got into trouble at school and missed class due to surgery, doctors' appointments and two (2) car accidents.

The Appellant provided some doctors' excuses to the Respondent, which accounted for some of the days she missed class, but the Appellant did not provide documentation of the amount of time she would need to recuperate from surgery or of the alleged car accidents she was in. The Appellant did not provide documentation from [REDACTED] showing that she completed the required 85 hours of class time each month, as she asserted. According to the Participation Time Sheets submitted to the Respondent by [REDACTED], the Appellant failed to meet the requirement of attendance for 85 hours per

month of Adult Basic Education class for January 2017, February 2017 and March 2017. The Respondent was correct to impose a sanction against the Appellant's WV WORKS benefits for failure to adhere to the work activity, without good cause, as listed on her Self-Sufficiency Plan.

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) The Appellant did not attend the required number of hours of Adult Basic Education class without good cause as found on her Self-Sufficiency Plan.
- 3) Third and all subsequent WV WORKS sanctions close the benefit for twelve months.
- 4) The Respondent was correct to impose a sanction against the Appellant's WV WORKS case, thereby terminating the benefit.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's WV WORKS cash assistance benefits.

ENTERED this 27th day of April 2017

Kristi Logan
State Hearing Officer