



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

June 26, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1670

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Cathy Estep, Family Support Supervisor

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1670

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on May 31, 2017, on an appeal filed April 17, 2017.

The matter before the Hearing Officer arises from the April 4, 2017 decision by the Respondent to discontinue the Appellant's receipt of WV WORKS cash assistance due to the imposition of a penalty or sanction.

At the hearing, the Respondent appeared by Cathy Estep, Family Support Supervisor. Appearing as witnesses for the Department were Darlyne Baker and Tyler Morse, Family Support Specialists. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Form DFA-PRC-1, WV WORKS Personal Responsibility Contract, signed by Appellant on August 3, 2016, and updated on February 8, February 21 and April 3, 2017
- D-2 DFA-TS-12, WV WORKS Participant Time Sheet for March 2017
- D-3 DFA-TS-12, WV WORKS Participant Time Sheet for April 2017
- D-4 DFA-TS-12, WV WORKS Participant Time Sheet for May 2017
- D-5 E-mail from WV DHHR, ██████████ County Office WV WORKS unit to WV DHHR Office of Children and Family Policy dated April 4, 2017, and reply from Office of Children and Family Policy dated April 4, 2017
- D-6 Letter from Department to Appellant dated April 4, 2017

- D-7 Letter from Department to Appellant dated April 4, 2017
- D-8 WV WORKS Volunteer Job Description for [REDACTED], [REDACTED] WV
- D-9 WV WORKS Volunteer Job Description for [REDACTED], [REDACTED] WV
- D-10 Letter from Department to Appellant, dated April 19, 2017
- D-11 WV DHHR Income Maintenance Manual (WV IMM), Chapter 13, §13.9
- D-12 Fair Hearing Witness List

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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. As a requirement of her participation in the WV WORKS program, she was required to participate in a work activity.
- 2) The Appellant had applied for WV WORKS on August 3, 2016. At that time, she signed a DFA-PRC-1, a WV WORKS Personal Responsibility Contract (Exhibit D-1). On this form, she acknowledged that she understood a third or subsequent sanction or penalty on the WV WORKS program resulted in case closure for twelve months.
- 3) On February 8, 2017, the Appellant updated her PRC by initialing an additional work requirement (Exhibit D-1, page 4). This updated work activity reads as follows: "To complete [community service] at [REDACTED]."
- 4) On February 21, 2017, the Appellant again updated her PRC by initialing an additional work requirement (Exhibit D-1, page 4). This updated work activity reads as follows: "To continue [community service] at [REDACTED]."
- 5) On April 3, 2017, the Appellant again updated her PRC by initialing an additional work requirement (Exhibit D-1, page 4). This updated work activity reads as follows: "To continue [community service] at [REDACTED] – 65 [hours]."
- 6) [REDACTED], an independent social services center in [REDACTED] County, WV, submitted a time sheet for the Appellant's work activity for March 2017. She obtained 34 hours of work activity for the Month of March (Exhibit D-2).
- 7) [REDACTED], another social services and vocational education center in [REDACTED] County, submitted a time sheet for the Appellant's work activity for the month of April 2017. She did not attend [REDACTED] during the month of April 2017.

- 8) [REDACTED] submitted a time sheet for the Appellant's work activity for the month of May 2017. She did not attend during the month of May 2017.
- 9) The Department established a third sanction against the Appellant, resulting in WV WORKS closure for twelve months, effective May 2017.
- 10) The Appellant requested a fair hearing to protest the establishment of this closure.

APPLICABLE POLICY

WV IMM §13.9 reads as follows:

When a member of the [WV WORKS assistance group or] AG or non-recipient Work-Eligible Individual does not comply with requirements found on his or her PRC, a sanction must be imposed unless the Worker determines that good cause exists.

WV IMM §13.9.A reads as follows in part:

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

- First OffenseIneligibility for cash assistance for one month
- Second OffenseIneligibility for cash assistance for six months
- Third and All
- Subsequent OffensesIneligibility for cash assistance for twelve months

DISCUSSION

The Appellant was a recipient of WV WORKS cash assistance, who was sanctioned or penalized for failing to obtain the required number of Community Service work activity hours. According to the letter the Department sent to the Appellant on April 4, 2017, she was penalized for her failure to obtain the correct number of hours for the month of March 2017 at the [REDACTED], a social services agency in [REDACTED] County, WV. She was not sanctioned for failing to attend [REDACTED] because she was placed there on April 3, 2017, and the closure letter states she was sanctioned for failing to obtain her hours in March 2017.

The Appellant initialed a PRC update on February 8 and February 21, 2017, agreeing to work at [REDACTED] (Exhibit D-1, page 4). The PRC update does not specify how many hours the Appellant had to work at [REDACTED]. The Department submitted evidence, a time sheet from [REDACTED] for March 2017, indicating she worked 34 hours that month. Because the Department did not specify how many hours the Appellant was required to work, the Department has not provided a preponderance of evidence to indicate the Appellant failed to obtain the required number of hours at this work activity site.

CONCLUSION OF LAW

The Department did not provide a preponderance of evidence to support its position that it acted correctly to impose a third sanction upon the Appellant's receipt of WV WORKS for failing to participate for the required number of hours in a Community Service work activity in the month of March 2017, pursuant to IMM Chapter 13, §13.9.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Department's decision to impose a third sanction upon the Appellant's receipt of WV WORKS cash assistance, thus discontinuing her eligibility for this benefit for twelve months.

ENTERED this 26th Day of June 2017.

**Stephen M. Baisden
State Hearing Officer**