



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

August 8, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1976

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: Sarah Megargee, WV DHHR, [REDACTED] Co.

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW

██████████,

Appellant,

v.

Action Number: 17-BOR-1976

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 August 3, 2017, on an appeal filed June 12, 2017.

The matter before the Hearing Officer arises from the May 9, 2017 decision by the Respondent to close the Appellant's WVWORKS/WVEAP benefits.

At the hearing, the Respondent appeared by Sarah Megargee, 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 WV WORKS – Personal Responsibility Contract (PRC), Self-Sufficiency Plan (SSP), signed and dated by ██████████, April 19, 2017
- D-2 Notice of denial for WV WORKS/WVEAP benefits, dated May 9, 2017
- D-3 Notice of Good Cause appointment, dated May 8, 2017
- D-4 Screen prints of Individual Comments from the Appellant's eRAPIDS case from May 8, 2017 to June 30, 2017
- D-5 WV Income Maintenance Manual, Chapter 15, §15.7.A (excerpt)

**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) On April 19, 2017, the Appellant and her husband, [REDACTED] (Mr. [REDACTED]), applied for WV WORKS benefits as a two-parent household.
- 2) As a two-parent work-eligible household, the Appellant and Mr. [REDACTED] needed to participate in a work activity 35 hours/week or 150 hours/month.
- 3) All WV WORKS participants must complete his or her first consecutive five days of the agreed upon work activity.
- 4) Mr. [REDACTED] agreed to participate in his work activity 35 hours/week or 150 hours/month, to begin on May 1, 2017 at [REDACTED] which he did not.
- 5) On May 8, 2017, the Respondent sent the Appellant and Mr. [REDACTED] an appointment notice for May 22, 2017 to show good cause for failure to complete the first consecutive five days of activity. (Exhibit D-3)
- 6) On May 9, 2017, the Respondent sent the Appellant and Mr. [REDACTED] a notice for WV WORKS/WVEAP closure. (Exhibit D-2)
- 7) The Appellant appeared for the good cause appointment; however, Mr. [REDACTED] did not. Good cause was not found. (Exhibit D-4)
- 8) The Appellant began employment with [REDACTED] sometime in May 2017, working 15 – 20 hours a week.

### **APPLICABLE POLICY**

Beginning on the first day that WV WORKS benefits are received, a work-eligible individual is subject to the work requirement. Therefore, the individual must be placed in a work activity as soon as possible. This placement should occur when the benefit is approved, concurrently with the initial assessment of the recipient's skill, prior work experience, and determination of employability. The participant must then begin his work activity as scheduled and complete all assigned hours for 5 consecutive assigned work days to meet his participation eligibility requirement. If he fails to participate as specified on his SSP, the WV WORKS benefit is closed after good cause for failure to participate has not been established. (WV IMM §15.7.A)

The minimum hours of work participation required for two-parent families who do not receive federally funded child care is 35 hours/week or 150 hours/month. (WV IMM §24.3.A.2)

There are some reasons for granting good cause for temporarily not meeting participation requirements, the beginning date of eligibility, the 5-day eligibility period, and the 24-month eligibility requirement are life events or problems such as, but not limited to:

- The death of a spouse, parent, child, or stepchild.
- In accordance with the Family and Medical Leave Act (FMLA) of 1993, an acute, life threatening illness of a spouse, parent, or child that requires the client’s immediate attention. This does not include individuals who are exempt from participation due to caring for a disabled family member as outlined in section 13.8.
- The minimum suitability standards for the specific activity are not met. See Sections 24.5 – 24.13 for minimum requirements. If none are listed for the activity, the Worker must determine if the activity placed unreasonable requirements on the client. Individuals granted good cause for this reason must be scheduled an appointment or home visit to review the situation and possible SSP update.

The Worker must determine if 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. The Worker may determine that the requirement was inappropriate based upon additional assessment. An appointment to update the SSP and place the individual in another component must be scheduled as soon as possible. In addition, the Worker may determine that not applying a sanction in a particular situation provides more motivation for future participation than the imposition of a sanction. However, once a sanction has been imposed, it cannot be stopped, until the appropriate time has elapsed.

- The parent, an included non-parent caretaker, or a non-recipient Work-Eligible Individual quits employment or fails to participate in his assigned activity due to enrollment and full-time attendance in school, training, or an institution of higher learning. The SSP must be updated and these individuals should be placed in the VT, AB, or CL components as soon as possible.

(WV IMM §13.10)

### **DISCUSSION**

On April 19, 2017, the Appellant and her husband applied for WV WORKS benefits. As the household was a two-parent work-eligible household, they were required to meet activity participation of 35 hours/week or 150 hours/month. As a requirement of eligibility for WV WORKS benefits, an individual must participate in the agreed upon activity for five consecutive days, absent good cause. Mr. [REDACTED] agreed to participate at [REDACTED] to fulfill the activity requirement for his household on May 1, 2017. On May 8, 2017, it was determined by the Appellant’s caseworker that Mr. [REDACTED] had not begun at [REDACTED] as required, and notice was sent to appear for a good cause appointment on May 22, 2017. The Appellant did show to the

good cause appointment; however, Mr. [REDACTED] did not. It was not disputed that Mr. [REDACTED] had failed to begin at [REDACTED]. At the good cause appointment, the Appellant asserted that she had begun working and believed that her caseworker told her that Mr. [REDACTED] would not have to begin at [REDACTED] if she was working. No good cause was found and the WV WORKS benefits were closed.

The Appellant testified that she had understood her caseworker to say that if she began working, then Mr. [REDACTED] would not have to fulfill his work activity at [REDACTED]. Although the sequence of events was unclear as to when the Appellant was hired and when she began working, it was clear that she was scheduled to work 15 – 20 hours a week, sometime after May 1, 2017. The Appellant would not have fulfilled the required work activity for her two-parent work-eligible household. There was no evidence presented to show why Mr. [REDACTED] could not have begun his agreed upon work activity even with the Appellant beginning work herself. The policy-required hours of participation are a minimal amount needed for continued program eligibility.

A work-eligible WV WORKS participant must begin his or her work activity as scheduled and complete all assigned hours for five consecutive assigned work days to meet his or her participation requirement for continued eligibility. As a member of the two-parent household, Mr. [REDACTED] contracted to fulfill the work activity at [REDACTED] beginning May 1, 2017. He did not. As the participation requirement was not met, the Respondent correctly closed the WV WORKS benefits for the Appellant and Mr. [REDACTED].

### **CONCLUSION OF LAW**

As the Appellant's two-parent work-eligible household was required to complete all assigned hours of work activity for five consecutive assigned work days to meet eligibility requirements to begin May 1, 2017 and they had not, the Respondent correctly closed the Appellant's WV WORKS/WVEAP benefits.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny the Appellant's WV WORKS/WVEAP benefits.

**ENTERED this 8<sup>th</sup> day of August 2017.**

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**Lori Woodward, State Hearing Officer**