



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

Esta es la decision de su Audiencia Imparcial.
La decision del Departamento ha sido confirmada/invertido/remitido.
Si usted tiene preguntas, por favor llame a Phillip Owens, 304-267-0100, ext. 71054

August 29, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2175

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: Kim Coleman, WV DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

████████████████████
Appellant,

v.

Action Number: 17-BOR-2175

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 24, 2017, on an appeal filed July 26, 2017.

The matter before the Hearing Officer arises from the July 12, 2017 decision by the Respondent to apply a third-level sanction to the Appellant's WV WORKS/WVEAP assistance group.

At the hearing, the Respondent appeared by Kim Coleman, Family Support Supervisor. Appearing as witness for the Respondent was ██████████ The Appellant appeared *pro se*. 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 the Appellant, April 7, 2017
- D-2 June 8, 2017 Notice (Form NNSA) of third-level sanction being applied to the Appellant's WV WORKS/WVEAP assistance group, and notice of good cause appointment
- D-3 Notice (Form EDC1) of WV WORKS/WVEAP closure, dated July 12, 2017
- D-4 WV Works 3rd and Subsequent Sanction Summary (Form DFA-WVW-75), dated June 19, 2017
- D-5 Email from Charlie R. Dotson, Office of Children and Family Policy, Division of Family Assistance (undated)
- D-6 Screen prints of Individual Comments from the Appellant's eRAPIDS case from March 1, 2017 to July 11, 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) On April 7, 2017, the Appellant entered into a PRC/SSP with his caseworker, Tara Shumate. (Exhibit D-1).
- 2) Under the PRC/SSP, the Appellant agreed, in pertinent part, to submit timesheets by the 5th of each month, begin SPOKES (Strategic Planning in Occupational Knowledge for Employment Success) classes as his work activity beginning April 10, 2017, for a total of 30 hours a week or 128 monthly hours, and to be available for a home visit on April 18, 2017 at 4:30 p.m. (Exhibit D-1)
- 3) The Appellant is a one-parent work-eligible household.
- 4) The Appellant began SPOKES classes in April 2017, and submitted his timesheet for April in a timely manner.
- 5) The Appellant requested that his home visit be rescheduled.
- 6) The home visit was rescheduled to May 12, 2017 at 2:00 p.m.; the Appellant was not home.
- 7) The Appellant's last activity at SPOKES class was April 17, 2017.
- 8) The Appellant did not submit a timesheet for the month of May 2017.
- 9) Caseworker Ana Seymour was assigned to the Appellant because Tara Shumate left the employment of the Respondent.
- 10) On June 8, 2017, notice was sent to Appellant regarding a third-level sanction being applied to his WV WORKS/WVEAP assistance group with a good cause appointment set for June 17, 2017. (Exhibit D-2)
- 11) The Appellant did not appear for his good cause appointment.
- 12) On June 19, 2017, the Respondent sent a WV WORKS 3rd and Subsequent Sanction Summary (Form DFA-WVW-75) to the Office of Children and Family Policy, Division of Family Assistance, for approval to impose a third sanction to the Appellant. (Exhibit D-4)
- 13) The third-level sanction imposition was approved by the TANF Policy Unit. (Exhibit D-5)

- 14) On July 12, 2017, notice was sent to the Appellant that a third-level sanction was being applied due to his failure to comply with the requirements of the Personal Responsibility Contract and/or the Self Sufficiency Plan. (Exhibit D-3)

APPLICABLE POLICY

WV Income Maintenance Manual (IMM) §13.9 explains that when a member of the Assistance Group (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.

IMM §13.9.A requires that the Division of Family Assistance TANF Policy Unit (TANF Policy Unit) approve 3rd and subsequent sanctions. An e-mail must be sent to TANF Policy Unit members and the Regional Program Manager once the prospective sanction is placed in eRAPIDS with the date and time of the scheduled case staffing along with a detailed summary on a DFA-WVW-75 outlining the reason for the sanction including:

- Case name, RAPIDS case number, PIN numbers;
- Current PRC;
- Number of referrals provided to the AG for help in removing barriers;
- Number of home/work site visits in the past 12 months;
- Any special or unusual circumstances in the family; and
- Worker, Supervisor and/or CSM decision, including reason, about whether or not the family should be sanctioned.

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 Offenses = 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.

All benefit terminations due to imposition of a sanction require advance notice. See Chapter 6 for specific information. Unless the client shows good cause for non-compliance, the sanction is imposed. This is true even if the client complies after the notice is sent but before the sanction is effective.

Once an ineligibility period is imposed, i.e. after expiration of the advance notice period, the ineligibility remains in effect for the pre-determined number of months, regardless of case status.

IMM §13.10, in pertinent part, states that all mandatory work-eligible individuals must be placed into a relevant and a current component for tracking and monitoring purposes on approval date. The participant must remain in that component whether or not they are working, cooperating, or sanctioned until either the case is closed or the Case Manager and participant agree to change the

component. Not meeting participation requirements or being sanctioned are not reasons to disenroll the participant from their assigned component(s). Once a sanction is imposed, the participant is enrolled in the WS component in addition to the work activity assignment. Failure or refusal to comply, without good cause, results in imposition of a sanction. When the worker discovers the failure or refusal, a notice of adverse action must be issued. When a letter is mailed scheduling the good cause interview, the Worker must allow no less than 7 calendar days.

The minimum hours of work participation required for a one-parent household who does not receive federally funded child care is 30 hours/week or 128 hours/month. (WV IMM §24.3.A.2)

DISCUSSION

On April 7, 2017, the Appellant signed a PRC/SSP with this caseworker agreeing to attend SPOKES as his work activity beginning on April 10, 2017. As a one-parent work-eligible household, he was required to meet activity participation of 30 hours/week or 128 hours/month. Additionally, under his PRC/SSP the Appellant agreed to submit his work activity timesheet by the 5th of each month, and to be available for a home visit on April 18, 2017.

The Appellant, who requested a reschedule of his April 18, 2017 home visit, was not available when the home visit was attempted on the rescheduled date, May 12, 2017.

The Appellant did not return an activity timesheet for the month of May. The Appellant's caseworker received information from SPOKES that the Appellant had not attended classes since April 17, 2017. On June 8, 2017, the Appellant was sent notification of a third-level sanction being applied for failure to comply with the terms of his PRC/SSP and that a good cause appointment was set for June 17, 2017. The Appellant did not attend his good cause appointment. On June 19, 2017, a WV WORKS 3rd and Subsequent Sanction Summary (DFA-WVW-75) was sent to the TANF Policy Unit. The TANF Policy Unit approved the sanction. On July 12, 2017, notice was sent to the Appellant regarding the imposition of the third-level sanction.

As the Appellant asserted that he did return an activity timesheet for the month of May 2017, a short recess was allowed for the Appellant's casefile to be doublechecked. When it was confirmed that a May activity timesheet was not returned by the Appellant, the Appellant then asserted he had doctors' appointments, was in the DHHR office seeking emergency assistance, and was busy job-seeking that month. He averred that those activities should count as his work activities or be found as good cause for not attending his work activity. He did not contact his caseworker regarding any of the asserted excuses for his failure to attend SPOKES for the month of May. The Appellant's own testimony confirmed that he did not attend SPOKES in May 2017 or return an activity timesheet as he originally testified.

In addition to not fulfilling his work activity for the month of May, the evidence showed he was not available for the rescheduled home visit on May 12, 2017. The Appellant testified that he was not available for the home visit because he was expecting his worker Tara Shumate. Regardless of which caseworker appeared for the home visit, the testimony and evidence presented showed that the Appellant was not at home for the scheduled home visit. Had Caseworker Shumate appeared on May 12, 2017 to conduct the home visit, he still would not have been home.

As a work-eligible WV WORKS participant, the Appellant must complete his work activity as contracted. He failed to do so for the month of May 2017. Additionally, the Appellant was not available for the home visit May 12, 2017, which was a rescheduled home visit at his request. The Appellant did not fulfill the terms of his PRC/SSP.

Whereas, this is the Appellant's third-level sanction, approved by the TANF Policy Unit, the Respondent correctly imposed the sanction, making him ineligible for cash assistance for twelve months.

CONCLUSIONS OF LAW

- 1) Per policy, a sanction must be imposed absent good cause when a member of a WV WORKS assistance group does not comply with requirements found on his PRC/SSP.
- 2) The Appellant signed a PRC/SSP to begin attending SPOKES as his work activity and to return his activity timesheet by the 5th day of each month.
- 3) The Appellant did not return to SPOKES classes after April 17, 2017, and consequently did not return an activity timesheet for May 2017.
- 4) The Appellant was not available for his home visit as scheduled on May 12, 2017.
- 5) The Appellant failed to show good cause for his failure to comply with the terms of his PRC/SSP.
- 6) This is Appellant's third sanction.
- 7) This third sanction against the Appellant was approved by the TANF Policy Unit as required by policy.
- 8) The Respondent correctly applied a third-level sanction against the Appellant.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to apply a third-level sanction against the Appellant's WV WORKS/WVEAP assistance group.

ENTERED this 29th day of August 2017.

Lori Woodward, State Hearing Officer