



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

October 18, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-2221

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Emily Russell, Department Representative  
Lance Whaley

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

BOARD OF REVIEW

██████████,

Appellant,

v.

Action Number: 17-BOR-2221

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 August 2, 2017.

The matter before the Hearing Officer arises from the Respondent's July 19, 2017 decision to terminate the Appellant's WV WORKS benefits.

At the hearing, the Respondent appeared by Emily Russell. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Personal Responsibility Contract (PRC)/Self-Sufficiency Plan (SSP) signed by the Appellant on May 8, 2017
- D-2 Participant Time Sheet regarding the Appellant, for activity in the month of June 2017
- D-3 Excerpt from the Notice of Decision
- D-4 Comments from the Respondent's data system regarding the Appellant, entry dates from July 18, 2017, to August 9, 2017
- D-5 West Virginia Income Maintenance Manual (WVIMM) excerpts: §24.3; §15.7

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 benefits.
- 2) As a condition of eligibility for WV WORKS, the Appellant was expected to participate in an activity.
- 3) The Appellant signed a Personal Responsibility Contract (PRC)/Self-Sufficiency Plan (SSP) on May 8, 2017, agreeing to complete her assigned activity for a total of 85 hours per month. (Exhibit D-1)
- 4) The Appellant attended the assigned activity for a total of 20 hours in June 2017. (Exhibit D-2)
- 5) The Respondent completed a home visit with the Appellant on July 19, 2017. (Exhibit D-4)
- 6) Subsequent to this visit, the Respondent notified the Appellant that her WV WORKS benefits would be terminated due to a sanction for failure to comply with her PRC/SSP. This notice provided a good cause appointment for the Appellant. (Exhibit D-3)
- 7) The Appellant attended her good cause appointment and reported zero hours at her assigned activity in July 2017. (Exhibit D-4)
- 8) The Appellant was the parent in a one-parent family with a child under the age of six (6), and had not provided any verification necessary to establish different participation hours at the time of the Respondent's July 19, 2017 decision to sanction and terminate the Appellant's WV WORKS benefits.

### **APPLICABLE POLICY**

The West Virginia Income Maintenance Manual (WVIMM), at §13.9, reads, "When a member of the AG [assistance group] or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC [Personal Responsibility Contract] or SSP [Self-Sufficiency Plan], a sanction must be imposed unless the Worker determines that good cause exists."

At §24.3.A.1.a, policy for WV WORKS sets the work participation requirement for a parent of a child under age six (6) as "85 hours/month or 20 hours/week."

At §13.9.A, policy for WV WORKS sanctions notes, “If a home visit has not been completed within 60 days of the 3<sup>rd</sup> or subsequent sanction request, one will need to be scheduled, attempted and documented before a sanction approval will be considered.” This policy additionally defines the penalty for third – and all subsequent – sanctions as “Ineligibility for cash assistance for 12 months.”

### **DISCUSSION**

The Appellant requested a hearing to contest the decision of the Respondent to terminate her WV WORKS benefits due to a sanction for PRC/SSP non-compliance without good cause. The Respondent must prove, by a preponderance of the evidence, that the Appellant did not comply with her PRC/SSP, and that the Appellant did not have good cause for doing so.

The Appellant signed a PRC/SSP agreeing to participate in a work activity for 85 hours per month on May 8, 2017. The Appellant did not meet this requirement in June 2017 or July 2017. The Appellant testified that she did not meet this requirement due to a misunderstanding about whether the hours had to be met on a weekly or monthly basis, but only attended her activity a total of 20 hours in two months. The Appellant additionally testified she misunderstood the total number of required monthly participation hours, but signed a PRC which explicitly stated the requirement and the possible penalties for non-compliance.

The Appellant attended her good cause meeting in August 2017, and provided her worker a statement from a medical professional. There was no such verification to support a different work participation requirement for the Appellant in the two prior months.

Based on the testimony and evidence, the Respondent clearly established that the Appellant did not comply with her PRC/SSP requirements in June 2017 or July 2017, and did not establish good cause for the non-compliance. The Respondent properly conducted the required home visit prior to initiating the sanction. The Respondent was correct to impose a “third or subsequent” sanction against the Appellant’s WV WORKS case, resulting in case closure and cash assistance ineligibility for twelve months.

### **CONCLUSIONS OF LAW**

- 1) Because the Appellant did not comply with the requirements of her PRC/SSP or establish good cause for doing so, the Respondent must sanction her WV WORKS case.
- 2) Because a WV WORKS sanction for a “third or subsequent” violation results in cash assistance ineligibility for twelve months, the Respondent must terminate the Appellant’s WV WORKS benefits.

**DECISION**

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

**ENTERED this \_\_\_\_ Day of October 2017.**

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**Todd Thornton  
State Hearing Officer**