



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

October 11, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-2375

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: Robert Meade, BCF, [REDACTED] Co. WV DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW

██████████,

Appellant,

v.

Action Number: 17-BOR-2375

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 October 3, 2017, on an appeal filed August 28, 2017.

The matter before the Hearing Officer arises from the August 21, 2017 decision by the Respondent to terminate the Appellant's WV WORKS/WVEAP benefits case.

At the hearing, the Respondent appeared by Robert Meade, 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 Notice (Form EDC1) of WV WORKS/WVEAP closure, dated August 21, 2017
- D-2 West Virginia Income Maintenance Manual (IMM) §1.25.T (excerpt)
- D-3 Screen prints of Case Summary from the Appellant's eRAPIDS case, Case Benefit Summary (ADCW), Activity Summary, WV WORKS – Personal Responsibility Contract (PRC) signed and dated November 28, 2016, and Self-Sufficiency Plan (SSP) signed and dated December 7, 2016
- D-4 Notice of appointment (NAGI) dated August 7, 2017
- D-5 Screen prints of Case Comments from the Appellant's eRAPIDS case from August 4, 2017 to September 1, 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) The Appellant was a recipient of WV WORKS/WVEAP (WV WORKS).
- 2) The Appellant signed a PRC on November 28, 2016 and a SSP on December 7, 2016. (Exhibit D-3)
- 3) The Appellant was notified by letter dated August 7, 2017 of an appointment to update her PRC on August 18, 2017 at 9:00 a.m. The notice also stated, "If you cannot keep this appointment ... contact the local office above the telephone number and address shown ... THIS APPOINTMENT IS FOR YOUR PRC UPDATE TO CONTINUE YOUR WV WORKS BENEFITS. IT IS MANDATORY FOR YOU TO ATTEND THIS APPOINTMENT ON THIS DATE OR YOU WILL BE SUBJECT TO A SANCTION OF YOUR BENEFITS. IF YOU DO NOT ATTEND THIS APPOINTMENT YOU WILL NOT RECEIVE BENEFITS BEGINING [sic] 09/01/17". (Exhibit D-4)
- 4) On August 18, 2017, the Appellant attempted to contact her WV WORKS worker, Robert Meade, several times prior to her scheduled appointment at 9:00 a.m., and left him several messages including having someone from his office email him that she was unable to attend the appointment due to heavy rain.
- 5) The Appellant was able to reach Mr. Meade fifteen minutes past her scheduled appointment time, and they mutually agreed to reschedule her appointment to August 29, 2017 at 9:30 a.m.
- 6) After agreeing to the reschedule, Mr. Meade called the Appellant and left a voice message retracting the agreed upon reschedule, setting a new appointment requiring her to appear that same day, August 18, 2017, at 11:00 a.m., less than two hours from the time he left the voice message.
- 7) The Appellant arrived at the local DHHR office at 1:00 p.m. on August 18, 2017; however, Mr. Meade was unable to accommodate his schedule to meet with her at that time.
- 8) On August 21, 2017, the Respondent sent a notice of closure stating the reason as "[T]he assistance group is ineligible for WV WORKS for failure/refusal of an adult included in the assistance group to sign the Personal Responsibility Contract (PRC). No one is eligible for WV WORKS." (Exhibit D-1)

## APPLICABLE POLICY

WV Income Maintenance Manual (IMM) §1.25.T explains that the Personal Responsibility Contract (PRC), form DFA-PRC-1, is a contract between each of the adult or emancipated minor members of the WV WORKS AG, or non-recipient Work-Eligible Individual(s), and the Worker, as the representative of the Department. Completion and signature of the PRC form DFA-PRC-1 is required prior to approving the WV WORKS AG. The PRC is the same for all WV WORKS participants. It states the purpose of the WV WORKS Program and lists the participant's rights and responsibilities. Each adult and emancipated minor AG member and non-recipient Work-Eligible Individual must sign of his own PRC.

IMM §1.25.U explains that the Self Sufficiency Plan (SSP), form DFA-SSP-1, is a negotiated contract between each of the adult or emancipated minor members of the WV WORKS AG, or non-recipient Work-Eligible Individual(s), and the Worker, as the representative of the Department. The SSP is specific to each participant and is the Self-Sufficiency Plan. It lists the goals, as well as the tasks necessary to accomplish the goals, including specific appointments, assignments and activities for the adult/emancipated minor. In addition, the SSP identifies the circumstances which impede attainment of the established goals and specifies the services needed to overcome the impediments. The SSP is a negotiated contract between the Department and the WV WORKS participant. It is a working document and revisions are made when either the participant or the Worker believes it necessary. Frequent changes are expected as the participant progresses toward his goal.

IMM §1.25.U.3, Subsequent Changes to the Self-Sufficiency Plan (SSP), states that changes may be made to the SSP when the participant and the Worker agree that changes are appropriate. These changes may be a result of identifying a new impediment to a goal, acceleration of the progress toward self-sufficiency, or on any other change in the client's circumstances. It may also be changed based on the addition of available services to the area or the loss of such services.

IMM §13.9 states when a member of the 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. 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

The Appellant was a recipient of WV WORKS benefits. Because of a change in circumstances, the worker required the Appellant to attend an appointment to sign a new PRC/SSP, and sent notice of the appointment on August 7, 2017. This notice not only gave the appointment date and time, but specifically stated “If you cannot keep this appointment ... contact the local office above the telephone number and address shown.” Additionally, it noted in boldface type, “THIS APPOINTMENT IS FOR YOUR PRC UPDATE TO CONTINUE YOUR WV WORKS BENEFITS. IT IS MANDATORY FOR YOU TO ATTEND THIS APPOINTMENT ON THIS DATE OR YOU WILL BE SUBJECT TO A SANCTION OF YOUR BENEFITS. IF YOU DO NOT ATTEND THIS APPOINTMENT YOU WILL NOT RECEIVE BENEFITS BEGINING [sic] 09/01/17”.

On the day of the appointment, August 18, 2017, the Appellant tried to contact her worker for a reschedule of her appointment. The Appellant testified that she did not have a babysitter for her child, and because of the heavy rain and having to walk to the bus stop, she wanted to reschedule her appointment. The Appellant tried to reach her worker several times prior to her appointment time, and eventually had someone at the local office send her worker an email. She did reach her worker fifteen minutes after the appointment time. It is uncontroverted that they mutually agreed to reschedule her appointment to August 29, 2017. However, the worker then called the Appellant after speaking with his supervisor, and left a voice message retracting the reschedule, stating that rain is not considered good cause to miss an appointment, and that if she did not come in for the appointment at 11:00 that day, he would sanction her.

Although the Appellant could have relied upon the mutually agreed upon reschedule, she appeared at the local office at 1:00 requesting to see her worker. The worker was unavailable to see the Appellant for an appointment at that time. Subsequently, the worker closed the Appellant’s WV WORKS case citing the reason as, “The assistance group is ineligible for WV WORKS for failure/refusal of an adult included in the assistance group to sign the Personal Responsibility Contract (PRC). No one is eligible for WV WORKS” on the notice that was sent to her on August 21, 2017.

The Respondent’s representative maintains that the Appellant had the responsibility to have a “back-up” plan for babysitting, and that rain was not good cause to miss an appointment. The worker has discretion in determining good cause, and it is not unreasonable not to find good cause due to heavy rain. The Appellant should have had an alternative plan for the care of her child and/or alternate transportation. However, because she and her worker mutually agreed to reschedule her appointment, she was justified in relying on that agreement. The undisputed testimony established that the Appellant made several attempts to reschedule her appointment that day by following the instructions on the August 7, 2017 notification letter. The worker cannot agree to a reschedule the appointment and then notify the Appellant by voice message sometime later that she is required to come to the office in less than two hours from the time of the voice message with failure to do so resulting in a sanction to be established against her. Moreover, it is noted that the worker notified the Appellant that the result of not attending the appointment was a sanction being imposed, with benefits ending August 31, 2017. However, instead of imposing a sanction, Mr. Meade terminated the Appellant’s benefits for failure/refusal to sign a PRC. As there

was a signed PRC already in place and only needed to be updated, it appears that the termination was an improper course of action.

Nonetheless, because the Appellant and her worker mutually agreed to reschedule her appointment to August 29, 2017, the Appellant was justified in relying on that agreement and should not have been required to show for an appointment unilaterally scheduled in less than two hours after voicemail notification. The Respondent incorrectly terminated the Appellant's WV WORKS benefits.

### **CONCLUSION OF LAW**

As there was a mutual agreement to a reschedule of the Appellant's appointment to August 29, 2017, the Respondent should not have terminated her WV WORKS/WV EAP benefits.

### **DECISION**

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

**ENTERED this 11<sup>th</sup> day of October 2017.**

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**Lori Woodward, State Hearing Officer**