



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

January 23, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 15, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to establish a third sanction which would terminate your WV WORKS benefits, and not to increase your SNAP benefits commensurate with this termination.

In arriving at a decision, the State Hearings 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.

Eligibility for the SNAP program is based on current policy and regulations. These regulations provide that SNAP benefits must not increase due to a reduction, suspension or termination of income from a federal, State or local welfare or public assistance program, when the reduction (suspension or termination) is due to the client's failure to comply with a requirement of the program. (West Virginia Income Maintenance Manual §10.4.D.8.b) Eligibility for the WV WORKS program also is based on current policy and regulations. These regulations provide that every parent or other caretaker included in a WV WORKS payment has a responsibility to participate in an activity to help prepare for, obtain and maintain gainful employment. (West Virginia Income Maintenance Manual §24.1)

The information submitted at this hearing revealed that in October 2011, you were sanctioned from the WV WORKS Program because you did not perform the work activity agreed upon when you completed your Personal Responsibility Contract (PRC), and your SNAP benefit did not increase because the loss of the WV WORKS benefit was due to your failure to comply with the program.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose a sanction against your WV WORKS benefits and to **Uphold** the proposal of the Department not to increase your SNAP commensurate with the imposition of this sanction.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Eugene Snyder, Family Support Specialist

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

-----,

Claimant,

v.

**ACTION NO: 11-BOR-2207 (SNAP)
11-BOR-2208 (WV WORKS)**

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a Fair Hearing concluded on January 23, 2012 for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This Fair Hearing was convened at the [REDACTED] County office of the WV DHHR in [REDACTED] WV, on December 15, 2011, on a timely appeal filed October 25, 2011.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP) is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households." This is accomplished through the issuance of benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited program that emphasizes employment and personal responsibility. The goals of WV WORKS are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by promoting self-sufficiency, and structure assistance to emphasize employment and personal responsibility.

III. PARTICIPANTS:

-----, Claimant

Eugene Snyder, Family Support Specialist, Department's Representative

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and member of the Board of Review.

Both participants were placed under oath at the beginning of the hearing.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its proposal to impose a third sanction against Claimant's WV WORKS benefit, and to not increase Claimant's SNAP benefit due to the loss of the WV WORKS benefit.

V. APPLICABLE POLICY:

WV Income Maintenance Manual §10.4.D, §13.9, §13.11 and §24.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Personal Responsibility Contract (PRC) Part 1 (Client and Agency Responsibilities), signed and dated by Claimant and Family Support Specialist on October 5, 2011
- D-2 Personal Responsibility Contract (PRC) Part 2 (Self-Sufficiency Plan), signed and dated by Claimant and Family Support Specialist on October 5, 2011
- D-3 EXCEL Program Weekly Participant Progress Report for the week of October 10 to October 14, 2011
- D-4 WV Income Maintenance Manual Chapter 13, section 9
- D-5 Letter from Department to Claimant dated October 17, 2011
- D-6 EXCEL Program Weekly Participant Progress Report for the week of October 17 to October 21, 2011
- D-7 Fair Hearing Request Form, signed and dated by Claimant on October 25, 2011
- D-8 Hearing/Grievance Request Notification, dated October 25, 2011
- D-9 Letter from Department to Claimant dated October 26, 2011

D-10 WV WORKS Work Activity Participant Time Sheet for October, 2011

D-11 Letter from Academy [REDACTED] WV.

VII. FINDINGS OF FACT:

- 1) In October, 2011, the WV WORKS unit of the WV DHHR in [REDACTED] WV, imposed a Third Sanction against Claimant's WV WORKS benefits due to her alleged failure to participate in a work activity. This sanction terminated Claimant's participation in the WV WORKS program for a minimum of three months. Claimant requested a Fair Hearing on October 25, 2011 (Exhibit D-7), in order to protest the imposition of this sanction and in order to protest the decision of the Department not to increase the amount of her SNAP benefit commensurate with the loss of her WV WORKS benefit.
- 2) On October 5, 2011, Claimant signed a Personal Responsibility Contract (PRC.) Part 1 of the PRC is a list of WV WORKS participant responsibilities. (Exhibit 1.) This document reads in part:

I understand that upon receipt of cash assistance, I am required to participate in a work activity.

I understand that I must develop a Self-Sufficiency Plan as part of my PRC. The final goal of my plan will be to become self-supporting . . . I must follow my plan or I may be sanctioned . . . I further understand that my Self Sufficiency Plan will be developed based on my own life situations and my plan may be changed as needed to help me meet my goal of getting a job.

I understand that if I am a parent age 20 or above, I will have to get a job or be in a job activity, or both. I further understand that if I quit or refuse a job or job activity without good cause, I will be sanctioned.

I understand that I must comply with the Rights and Responsibilities section of my application for assistance and follow my PRC or a penalty may be applied. Penalties include case closure, repayment or legal action, removal from the payment, or sanctions as follows:

- First sanction – A one-third cut in my family's WV WORKS benefit for three months for my first penalty;
- Second sanction – A two-thirds cut in my family's WV WORKS benefit for three months for my second penalty;
- Third and all subsequent sanctions – My family's WV WORKS benefit will stop for at least three months if I have a third penalty.

Claimant and Department's representative signed and dated this document.

- 3) Part 2 of the PRC is known as the “Self-Sufficiency Plan” and contains activities agreed upon by the WV WORKS recipient and his/her worker, along with time limits or due dates for the activities. Department’s representative submitted into evidence the Self-Sufficiency Plan signed by Claimant and himself on October 5, 2011. (Exhibit D-2.) Among the activities Claimant agreed to undertake as a WV WORKS recipient were for her to begin a job and life skills class known as “Excel,” on October 6, 2011 at 9:00 AM, and for her to participate in this class for six (6) hours per day, thirty (30) hours per week. Claimant signed and dated the Self-Sufficiency Plan.
- 4) Department’s representative submitted as evidence an Excel Weekly Participant Progress Report for the week of October 10 – October 14, 2011, indicating that Claimant began the activity on October 6 but did not attend the activity after October 12. (Exhibit D-3.)
- 5) West Virginia Income Maintenance Manual, Chapter 13.9 (Exhibit D-4) states in pertinent part:

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.

DEFINITION OF SANCTION

Sanctions are applied in the form of benefit reductions and, for the 3rd or subsequent offense, termination of benefits. The amount of the benefit reduction is a fixed amount and is determined as follows:

1st offense – 1/3 reduction in the benefit amount, prior to recoupment, the AG [assistance group] is currently eligible to receive, for three months.

2nd offense – 2/3 reduction in the benefit amount, prior to recoupment, the AG [assistance group] is currently eligible to receive, for three months.

3rd Offense and all subsequent offenses – Ineligibility for cash assistance for three months.

- 6) West Virginia Income Maintenance Manual, Chapter 10.4.D.8.b states in pertinent part:

SNAP benefits must not increase due to a reduction, suspension or termination of income from a federal, State or local welfare or public assistance program, when the reduction (suspension or termination) is due to the client’s failure to comply with a requirement of the program. This includes a reduction, suspension or termination to accomplish repayment, when the reason for repayment is failure to comply with a program’s requirements.

- 7) Department's representative stated that he imposed a third sanction on Claimant's WV WORKS benefit on October 17, 2011. He stated that a letter informing Claimant of the proposed action was sent to her on that date. (Exhibit D-5.)
- 8) Claimant testified that she attended a [REDACTED] Course at the [REDACTED] in [REDACTED] WV. She stated that she informed the Excel Program instructor that she was going to begin this training and the instructor approved for her to do this. She testified that after the surface mining certification course was concluded, she began the Underground Mining Apprenticeship Course at the [REDACTED]. She added that the Academy submitted a letter to the WV WORKS unit of the WV DHHR, [REDACTED] Office, informing her worker that she had completed the Surface Mining portion of this program and was beginning the Underground Mining portion. Claimant stated that she came into the [REDACTED] Office and updated her PRC.
- 9) Department's representative stated that he did receive a letter indicating Claimant was scheduled to attend the Academy [REDACTED]. He submitted the letter into evidence (Exhibit D-11), which reads as follows:

To Whom It May Concern:

This letter is to confirm that [Claimant] is currently a student in the 40-hour Surface Apprenticeship Course at S [REDACTED] [REDACTED] [REDACTED] [REDACTED] College Academy for Mine Training and Energy Technologies. The dates of the class are October 24 – 28, 2011.

The letter is signed by an Adjunct Instructor at the [REDACTED]. It is not dated.

- 10) Department's representative stated that he received no letter to indicate Claimant had completed an underground apprenticeship training class. He stated that it is acceptable for a WV WORKS recipient to change his or her work activities, but the recipient must meet with his or her case manager in order to update his or her PRC. He added that he was Claimant's case manager, and to his knowledge, there was no PRC update to include the mining certification classes as a work activity.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that a WV WORKS cash assistance recipient must sign a Personal Responsibility Contract and must participate in the activities listed on the Self-Sufficiency Plan portion of the Contract.
- 2) Department's representative submitted evidence to indicate Claimant agreed to participate in a job and life skills class called Excel, beginning on October 6, 2011. The evidence indicates Claimant began this class as scheduled on October 6, but did not attend after October 12, 2011.

- 3) Claimant stated she completed a surface mining certification program and had begun an underground mining certification program, with the approval of the Excel program instructor.
- 4) The only documentation submitted concerning the mining classes indicated she was enrolled in a surface mining certification class which would run from October 24 to October 28, 2011. There was no documentation to indicate that Claimant came into the [REDACTED] DHHR office to inform her WV WORKS case manager that she was changing her work activity, or that she signed an updated PRC for this activity.
- 5) Because Claimant stopped attending the activity she agreed to perform on her October 5 PRC, and because she did not report to the WV WORKS unit about changing her work activity, the Department acted correctly to impose a third sanction against her WV WORKS cash assistance benefit.
- 6) The Department acted correctly not to increase Claimant's SNAP benefit when her WV WORKS benefit ended because she failed to comply with the requirements of the WV WORKS program.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose a third sanction against Claimant in the WV WORKS program, and to **uphold** the proposal of the Department not to increase Claimant's SNAP benefit amount as a result of the loss of the WV WORKS benefit.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 23rd day of January 2012.

Stephen M. Baisden
State Hearing Officer