



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

January 21, 2016

[REDACTED]

RE: [REDACTED] v WV DHHR  
BOR ACTION NOS.: 15-BOR-3592 and 15-BOR-3593

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,

Donna L. Toler  
State Hearing Officer  
Member, State Board of Review

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

cc: Pamela Street, Family Support Supervisor

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

██████████,

**Appellant,**

**v.**

**Action Nos: 15-BOR-3592 and  
15-BOR-3593**

**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 convened on January 20, 2016, on an appeal filed November 30, 2015.

The matter before the Hearing Officer arises from the November 18, 2015 decision by the Respondent to terminate the Appellant's West Virginia Works benefits and to decrease her Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Pamela Street, Family Support Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Self-Sufficiency Plan (Part 2 of 2), executed August 28, 2015
- D-3 Correspondence from DHHR ██████████ County to the Appellant, dated November 13, 2015
- D-4 Notice of Pending Closure (DFA-WVW-5), dated November 13, 2015
- D-5 Correspondence from DHHR ██████████ County to the Appellant, dated November 18, 2015 (Pages 1-3 of 8)
- D-6 WV Works Personal Responsibility Contract (PRC), executed August 28, 2015
- D-7 Participant Time Sheet SPOKES, dated November 5 through November 30, 2015
- D-8 Participant Time Sheet, Community Service, week of November 1 and Participant Time Sheet, Community Service, week of November 8

D-9 Individual Case Comments computer screen print, dated November 3 through January 13, 2016 and Case Comments computer screen print, dated November 16, 2015 through December 1, 2015

**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 is a recipient and participant in the Department's WV WORKS cash assistance program and the Supplemental Nutrition Assistance Program (SNAP), all benefits have been continued pending a decision in this matter.
- 2) On August 28, 2015, the Appellant signed a Personal Responsibility Contract (PRC) which outlined her responsibilities as a recipient of the WV WORKS program benefits. (Exhibit D-6)
- 3) The PRC, which was signed by the Appellant and a representative of the Department, outlined the penalties for failure to comply with the agreed upon Rights and Responsibilities. (Exhibit D-6)
- 4) The penalty listed on the PRC indicated that in the event of a third sanction offense, the Appellant's WV WORKS benefits would be terminated for a period of six (6) months. (Exhibit D-6)
- 5) The August 28, 2015 Self-Sufficiency Plan (SSP), a part of the PRC, required that the Appellant complete 26 hours of community service per week. (Exhibit D-2)
- 6) During the week of November 1 through November 7, the Appellant completed 24 hours of community service. (Exhibit D-8)
- 7) During the week of November 8 through November 14, the Appellant completed 4 hours of community service. (Exhibit D-8)
- 8) The Appellant was eligible for 16 hours of excused absences in the month of November 2015.
- 9) On November 16, 2015, the Department conducted a case staffing meeting with the Appellant and provided her the opportunity to establish good cause for failing to attend her assigned activity. Good cause was not established. (Exhibit D-9)

- 10) On November 18, 2015, the Department mailed the Appellant notice that a six-month sanction was being applied to her WV WORKS and SNAP benefits effective December 2015, for failure to meet the terms of her Personal Responsibility Contract. (Exhibit D-5)
- 11) The Appellant contended that she was unable to complete the required community service hours because she had no transportation. The Appellant reported that the individual who normally provided her transportation had a family medical emergency and that the public transportation refused to provide her with rides on those dates.
- 12) The Appellant was unable to recall the dates she had no transportation and was unable to confirm that the resulting absences were in the month of November 2015.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) §1.25, instructs that failure, without good cause, to adhere to the responsibilities or any task listed on the PRC/SSP after signature results in a sanction being imposed.

WV IMM §13.9 (effective August 6, 2015), outlines the penalties for WV WORKS sanctions as follows:

1st Offense	Ineligibility for cash assistance for 1 month;
2nd Offense	Ineligibility for cash assistance for 3 months;
3rd Offense	Ineligibility for cash assistance for 6 months; and
4th and Subsequent Offense	Ineligibility for cash assistance for 12 months.

WV IMM §13.10, requires that all mandatory Work-Eligible individuals be placed in a relevant and current component for tracking and monitoring purposes on approval date. The participant must remain in that component until either the case is closed or the Case Manager and participant agree to change the component. WV IMM §13.10 also sets forth reasons for granting good cause due to life events and/or problems and reads, “The Worker must determine whether or not 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.” Failure or refusal to comply without good cause results in the imposition of a sanction. .

WV IMM §13.11.A, requires a SNAP penalty be applied to a WV WORKS recipient when the individual is exempt from SNAP work requirements only because she is subject to, and complying with, a WV WORKS work requirement and if the individual failed to comply with a requirement related to an required activity. Once the penalty begins, the full SNAP penalty period must be served, even if the WV WORKS benefit is closed. The penalty is only lifted if the individual is receiving WV WORKS and becomes exempt from WV WORKS work requirements; or the individual meets an exemption, except the receipt of WV WORKS.

WV IMM §24.3.A, requires that in order to receive Federal cash assistance benefits through the West Virginia Works program, recipients must participate in an eligible activity. A one-parent family is required to participate a minimum of 128 hours/month or 30 hours/week.

WV IMM §24.3.B.2 establishes guidelines for workers in regards to the treatment of hours missed in assigned activities. Excused absences are permitted up to sixteen hours per month.

### **DISCUSSION**

The Appellant contended she had good cause for failing to complete 26 hours of community service in her weekly assigned activity. The Appellant completed 24 hours in the first week of November 2015, and 4 hours in the second week of November. The Appellant testified that she was unable to attend her activity due to transportation issues involving her driver and the public transportation system. She reported that her driver was unable to take her due to a family medical issue and that the public transportation system refused to provide her a ride. The Appellant was unable to recall the dates she was unable to attend and could not even confirm that it was in the month of November 2015. Based on testimony provided by the Appellant, good cause could not be established.

Policy permits a maximum of 16 hours in excused absences per month. Even if the Appellant utilized the 16 hours in the second week of November, she could only be attributed with a total of 20 hours for the week, 6 hours short of the required participation amount outlined on her August 28, 2015 PRC, and 2 hours short for the first week of November.

Policy indicates that WV WORKS recipients who fail to comply with work requirement activities are subject to a SNAP penalty unless they meet an exemption. The Appellant made no contention that she met an exemption to the work requirement. Therefore, the Department was correct in applying a SNAP penalty for her failure to meet the WV WORKS work requirement activity.

### **CONCLUSIONS OF LAW**

- 1) The Appellant failed to comply with her PRC/SSP requirements. The Department must apply a sanction if good cause is not met. Because the Appellant did not establish good cause, the Department must sanction the Appellant's WV WORKS benefits.
- 2) The Appellant's WV WORKS case previously had been sanctioned on two other occasions. Policy establishes that the penalty for a third offense sanction results in the termination of WV WORKS benefits for a period of six (6) months.
- 3) Because the Appellant failed to comply with her WV WORKS work requirement related to a required activity or meet an exemption. Policy establishes that a SNAP penalty must be imposed. The Department was correct in its decision to reduce the Appellant's monthly SNAP allotment.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to apply a third offense sanction penalty and terminate the Appellant's WV WORKS benefits and apply a SNAP work requirement penalty resulting in a reduction of the Appellant's SNAP benefits.

**ENTERED this 21<sup>st</sup> day of January 2016.**

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**Donna L. Toler**  
**State Hearing Officer**