



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

September 20, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2260

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

Cc: Megan Rosencrance, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2260

**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 September 6, 2017, on an appeal filed August 8, 2017.

The matter before the Hearing Officer arises from the Respondent's reduction of the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits effective September 2017.

At the hearing, the Respondent appeared by Barbara Zickefoose, Family Support Supervisor, WVDHHR, and Megan Rosencrance, Family Support Specialist, WVDHHR. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████, Appellant's fiancé; ██████████, Appellant's mother; and ██████████, Appellant's father. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated August 1, 2017
- D-2 WV WORKS sanction letter dated June 15, 2017
- D-3 West Virginia Income Maintenance Manual Chapter 24.5 (Page 35)
- D-4 West Virginia Income Maintenance Manual Chapter 13.9 (Page 24)
- D-5 None provided
- D-6 None provided
- D-7 SNAP benefit calculations
- D-8 Case Comments
- D-9 Employment Statement from ██████████
- D-10 Hearing Summary

It should be noted that the hearing record remained open through September 8, 2017, to allow for the submission of additional evidence by the Respondent.

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 and Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits.
- 2) On August 1, 2017, the Respondent sent the Appellant a Notice of Decision (D-1) indicating that her SNAP benefits would decrease from \$631 to \$282 per month effective September 2017 due to an increase in earned income. The letter also indicates that WV WORKS income was still being counted in the SNAP benefit calculation although the Appellant's WV WORKS case closed due to a second Personal Responsibility Contract (PRC) sanction.
- 3) The Respondent contends that the second WV WORKS sanction was applied based on the Appellant's failure to comply with PRC work requirements of 150 hours per month for a two-parent household. The PRC was not provided during the hearing.
- 4) The Respondent maintains that the Appellant was sanctioned for failing to meet her monthly work requirement hours at [REDACTED] for April 2017 (see Exhibit D-8). However, no Participant Time Sheets were provided during the hearing. The Respondent tentatively removed the sanction because the Appellant had obtained employment at [REDACTED] in June 2017, but opted to proceed with the sanction's imposition after the Respondent learned that the Appellant allegedly walked off her job at [REDACTED] on the first day of employment.
- 5) While the Respondent and the Appellant provided differing accounts concerning the Appellant's separation from employment at [REDACTED] the Respondent indicated that the Appellant's second sanction could have been implemented regardless based on her failure to complete work hours at the [REDACTED].
- 6) The Appellant has since obtained employment with [REDACTED] working 28 hours per week at \$8.75 per hour (D-9).
- 7) The Respondent indicated that the Appellant's total SNAP allotment for September 2017 is based on earned income from [REDACTED] child support, and the \$384 in WV WORKS benefits the Respondent continues to count in the case after imposition of the second PRC sanction.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 1.25.T states 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 Assistance Group (AG). Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the 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 his own PRC. In addition, the worker must sign the form as the Department's representative. The participant's signature indicates that he understands and accepts the responsibility inherent in the Program. The worker's signature indicates that he has explained the participant's rights and responsibilities and the Department's responsibilities to the participant. It also indicates that the worker has addressed all of the participant's questions and concerns before requesting him to sign it.

West Virginia Income Maintenance Manual Chapter 13.9 states that 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.

West Virginia Income Maintenance Manual Chapter 10.3.DD states that employment compensation is counted as earned income for the SNAP.

West Virginia Income Maintenance Manual Chapter 10.4.D.b.a states that the amount of the WV WORKS benefit prior to the termination continues to be counted as income, even though the client no longer receives it due to a sanction. The amount which is counted for SNAP benefits is the amount to which the sanction is or would be applied. When another action is taken prior to imposition of the sanction which changes the amount of the WV WORKS benefit, that amount is counted for SNAP benefits.

DISCUSSION

Policy states that employment compensation is counted as earned income for the SNAP, and the amount of the WV WORKS benefit prior to termination continues to be counted as income for the SNAP, even though the client no longer receives the WV WORKS benefit due to a sanction. Each WV WORKS adult participant must sign his/her own PRC, indicating that he/she understands and accepts the responsibilities contained in the document. The worker must also sign the PRC indicating that he/she has explained rights and responsibilities to the participant.

The Respondent was correct in counting the Appellant's earned income toward her SNAP benefits. However, the Respondent provided no verification that the Appellant signed a PRC, agreeing to complete 150 work hours per month. As this documentation was not provided, the Hearing Officer

cannot determine whether the Appellant failed to comply with directives on the PRC. Therefore, the Respondent's decision to impose the second WV WORKS sanction cannot be affirmed, and the prior amount of the WV WORKS benefit cannot count toward SNAP benefits.

CONCLUSIONS OF LAW

The Department acted correctly in counting the Appellant's earned income toward her monthly SNAP allotment effective September 2017. However, as no evidence was provided to confirm that the Appellant failed to comply with PRC requirements, the imposition of the WV WORKS sanction cannot be affirmed. Therefore, the WV WORKS payment should not have counted as SNAP income after WV WORKS benefits were terminated.

DECISION

It is the decision of the State Hearing Officer to REVERSE and REMAND the Respondent's decision to decrease SNAP benefits. The Respondent is directed to remove the second sanction from WV WORKS benefits and recalculate all benefits retroactively to the sanction's imposition.

ENTERED this 20th Day of September 2017.

Pamela L. Hinzman
State Hearing Officer