



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
PO Box 1247
Martinsburg, WV 25402

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

April 26, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1423

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: Christina Brown, WV DHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1423

**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 April 20, 2016, on an appeal filed March 4, 2016.

The matter before the Hearing Officer arises from the February 19, 2016 decision by the Respondent to deny the Appellant's WVWORKS/WVEAP post-employment services benefits.

At the hearing, the Respondent appeared by Christina Brown, Family Support Specialist. Appearing as witness for the Respondent was Reba Parsons, Family Support Supervisor. The Appellant appeared *pro se*. Observing, but not participating, was Robert Meade, Family Support Specialist. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual (WV IMM) §24.16
- D-2a Notice of Decision dated January 20, 2016
- D-2b Notice of Decision dated August 18, 2015
- D-3 Income Summary Screen Print
- D-4 Case Comments from August 11, 2015 to March 4, 2016
- D-5 Individual Comments from August 12, 2015 to February 23, 2016
- D-6 WV WORKS Post-Employment Services Options dated January 19, 2016
- D-7 Participation Time Sheets for September through December 2015
- D-8 Personnel Pre-Hire Info Form for ██████████
- D-9 Case Activities Screen Print

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 participant in the WV WORKS cash assistance program.
- 2) The Appellant met with her caseworker on August 11, 2015 for emergency assistance. The Appellant reported her new employment at that time. (Exhibit D-4)
- 3) On August 12, 2015, the Appellant provided to the Department an employer's statement from [REDACTED] with a start work date of August 13, 2015. (Exhibits D-4).
- 4) The Appellant's WV WORKS/WVEAP benefits ended August 31, 2015, and she became eligible for continuation of services. The Appellant had until September 30, 2015 to sign the DFA-WVW-15, selecting her postemployment option. (Exhibit D-2b) The Appellant's caseworker noted in case comments that on August 12, 2015 she sent the Appellant a Post-Employment Services Option form (DFA-WVW-15) with a due back date by September 30, 2015. (Exhibit D-4) No copy was retained in the Appellant's case file.
- 5) The Appellant's case was transferred out of the WV WORKS caseload into the Economic Services caseload by October 12, 2015. (Exhibit D-4)
- 6) On January 14, 2016, the Appellant spoke with the Family Support Supervisor, Reba Parsons (Ms. Parsons), who determined that the Appellant had not been offered her postemployment services option back in August. Ms. Parsons set an appointment for the Appellant to meet with a worker on January 19, 2016 offering to backdate the postemployment option. (Exhibit D-5)
- 7) On January 19, 2016, the Appellant entered into a WV WORKS Post-Employment Services Options contract for support services to continue through March 31, 2016. (Exhibit D-6)
- 8) The Appellant submitted her Participant Time Sheets from September 2015 through December 2015 for mileage reimbursement at that time. (Exhibit D-7)
- 9) On February 23, 2016, Ms. Parsons entered a notation in the Appellant's case that the Appellant already was in the post-employment program. (Exhibit D-5)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (IMM) §24.1 explains that 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. Policy further explains that 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.

IMM §24.16 states that Work-Eligible individuals may choose between 2 employment support options for a period extended for up to 6 additional months any time WV WORKS cash assistance is closed and the participant reports employment within 10 days of the employment begin date. When the client accepts employment and the WV WORKS benefit is closed, the worker advises the client regarding the benefits of each option and the participant chooses the one best suited to the needs of his family. The participant has 30 days from the date of the closure to sign the DFA-WVW-15 to document his decision. The participant is ineligible to receive either option if the form is not returned in this time frame. The case manager must note which option the individual has chosen in Work Programs comments. The participant receives one copy of the form and another is placed into the case record. Post-employment services eligibility begins the month after the effective month of closure and continues through the end of the sixth month.

IMM §24.4, Local Office Responsibilities In The Work Program Aspect of WV Works, instructs that in addition to the responsibilities contained in other chapters of the IMM, the worker has responsibilities related to the work program aspect of WV WORKS. The worker must assist the client in all reasonable ways to achieve self-sufficiency. To accomplish this, the worker must assess the client's knowledge and skills, work with the client and make informed recommendations about courses of action appropriate for each individual to develop a plan that is expected to lead to self-sufficiency. In addition, he must enter into an agreement with the client concerning his involvement in the process of becoming self-sufficient, monitor the client's progress to determine changing needs and the need for support service payments and take appropriate follow-up action based on the client's actions. [Emphasis added]

IMM §24.6.C, Job Retention Follow-Up, mandates that the worker must complete a follow-up contact with the employed Work-Eligible Individual in the closed WV WORKS case at the 30- and 90-day intervals following Assistance Group (AG) closure or EAP starting date. The 30-day follow-up contact may be made by a face-to-face contact which may be held at the client's home, work site, at a location agreed upon by the client and the worker or by phone. The worker will decide if the 30-day job retention follow-up is done face-to-face or by phone. If after three attempts the worker is unable to reach the client by phone, a full case recording must be made. [Emphasis added] The results of the interviews are recorded on form DFA-WVW-JR-1. The form must be completed at the 30-day job retention interview and may be simply reviewed at the 90-day retention period. The 30-day job retention interview must include, but is not limited to the following: current employment situation, status and progress; concerns such as transportation, child care, ability to pay current living expenses, possible emergencies, health,

family's health, other family situations, etc. The worker must also insure that necessary support services, vision and dental services, and other agency services are being provided as needed and appropriate. The worker must provide client with information regarding other agency and community services available to address any identified needs. A 30-day Self-Sufficient Achievement Bonus of \$100 is issued after completion of the 30-day follow-up and DFA-WVW-JR-1. Form DFA-WVW-JR-1 must be filed in the client's case record at the 30- and 90-day interval. RAPIDS recordings must be completed by the Worker. [Emphasis added] Additionally, the 90-day follow-up review must be made before the case is transferred to an Economic Service caseload. [Emphasis added] In addition, those cases due for SNAP redetermination in the 3rd month after case closure must have the redetermination completed prior to transferring the case to an Economic Service caseload.

DISCUSSION

The goal of the WV WORKS program is to promote self-sufficiency and to structure assistance to emphasize employment and personal responsibility. To help a program recipient accomplish this goal, the worker must help provide follow-up and assistance. The program recipient must also take steps to accomplish this goal by showing personal responsibility in meeting the agreed upon goals and following the program policies.

The Appellant did show personal responsibility by finding new employment and reporting it in a timely manner on August 11, 2015, and by providing verification the following day. The Department sent notice of WV WORKS/WVEAP closure to the Appellant on August 18, 2015.

Per policy, when the client accepts employment and the WV WORKS benefit is closed, the worker must advise the client regarding the benefits of each option and the participant chooses the one best suited to the needs of the family. The Appellant provided credible evidence that she had a discussion with her worker at the time she reported her new employment on August 11, 2015. The evidence showed that there was a discussion regarding the fact that the Appellant was ineligible for the Employment Assistance Payments (EAP) option and that she needed to opt for continued support services. The worker must note which option the individual has chosen in Work Programs comments. There was no notation, however, in the case record indicating this discussion took place or which option which was chosen. Additionally, the client and the worker must sign a DFA-WVW-15, WV Post-Employment Services Options form. There was no form in the Appellant's case file, only a notation that the worker sent this form out the following day.

Per policy, the worker must follow up, or at least document three attempts to follow up, after 30 days from the closure of a client's WV WORKS benefit case due to becoming over income from starting a new job. This 30 day follow up is especially important as the worker is to address concerns such as, but to limited to, transportation, child care, ability to pay current living expenses, possible emergencies, health, family's health, other family situations to assist the client in retaining his or her new job. The worker must provide the client with information regarding other agency and community services available to address any identified needs at the 30-day follow up. A 30-day Self-Sufficient Achievement Bonus of \$100 is issued after completion of the 30-day follow up and DFA-WVW-JR-1. The evidence showed that none of this was provided to the Appellant.

Also absent was evidence that the worker tried to accomplish the policy-mandated 90-day follow-up interview with the Appellant. The evidence did show that the Appellant's case was transferred to the Economic Services caseload by October 12, 2015, less than two months after closure of her WV WORKS benefits without the 90-day follow-up interview. (See Exhibit D-4)

Unfortunately for the Appellant, it appears as though the Department failed to follow its own policy in providing the Appellant with the WV WORKS benefit services she was entitled to receive, which casts doubt as to whether the Appellant was actually sent the DFA-WVW-15 on August 12, 2015 as noted in the case comments by the worker (a copy of which was mysteriously absent from the case file). Nonetheless, when the Respondent offered Appellant backdating of her post-employment option form (DFA-WVW-15) and entered into a signed contract on January 19, 2016 allowing the Appellant to receive post-employment support services until March 31, 2016, it was a binding contract. As such, it must be honored, especially in light of the fact that the Appellant did not receive any of the follow-up by her worker required by policy.

CONCLUSIONS OF LAW

- 1) The Employment Assistance Payment program is available to former WV WORKS recipients whose earned income is excessive to continue receiving a WV WORKS payment for a period of 6 months.
- 2) A DFA-WVW-15 must be signed within 30 days from the closure of the WV WORKS case in order to receive post-employment services.
- 3) The caseworker must discuss the client's post-employment options and properly record this in the case records, along with conducting, or attempting to conduct, mandated 30- and 90-day job retention interviews.
- 4) The Respondent and Appellant entered into a binding contract on January 19, 2016 allowing the Appellant to receive continued support services through March 31, 2016.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Department's decision to deny the Appellant continued post-employment support services through March 31, 2016. The Department must provide any continued support services for which the Appellant would have been eligible to receive from October 1, 2015 through March 31, 2016, including but not limited to any bonuses for which she may have been eligible during that time.

ENTERED this 26th day of April 2016

Lori Woodward, State Hearing Officer