



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
203 East Third Avenue  
Williamson, WV 25661**

**Earl Ray Tomblin  
Governor**

**Karen L. Bowling  
Cabinet Secretary**

May 13, 2016



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-1522

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,

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

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

cc: Cathy Estep, Family Support Supervisor

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

██████████,

**Appellant,**

**v.**

**Action Number: 16-BOR-1522**

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on May 12, 2016, on an appeal filed March 16, 2016.

The matter before the Hearing Officer arises from the March 3, 2016 decision by the Respondent to discontinue the Appellant's receipt of WV WORKS cash assistance due to the imposition of a fourth sanction.

At the hearing, the Respondent appeared by Cathy Estep, Family Support Supervisor. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Letter from Department to Appellant, dated March 3, 2016
- D-2 Physician's Summary, signed by Appellant's physician on January 13, 2016
- D-3 Referral for Training/Services, signed by Appellant and worker on January 15, 2016
- D-4 Referral of WV WORKS Applicants, dated January 18, 2016
- D-5 Letter from Department to Appellant, dated February 23, 2016
- D-6 WV WORKS Personal Responsibility Contract (PRC) and Self-Sufficiency Plan (SSP), signed and dated by Appellant on January 15, 2016
- D-7 WV DHHR Income Maintenance Manual, Chapter 13, §13.9

**Appellant's Exhibits:**

- A-1 Letter from WV DHHR, Office of Human Resource Management, to Appellant, dated June 19, 2014
- A-2 WV DHHR Participant time sheets, blank (2)
- A-3 DFA-WVW-5, Notice of Pending Closure of Benefits, dated February 10, 2016

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 cash assistance benefits. As a requirement of her participation in the WV WORKS program, she was required to participate in a work activity.
- 2) On January 15, 2016, the Appellant signed a Personal Responsibility Contract (PRC) and Self-Sufficiency Plan (SSP), agreeing to attend a job readiness class known as SPOKES for five hours per week beginning January 18, 2016 (Exhibit D-6). A worker at the WV DHHR, [REDACTED] Office, gave her referrals to the class (Exhibits D-3 and D-4) on that day.
- 3) The Appellant never attended the SPOKES class. The Department sent to the Appellant a Good Cause Letter (Exhibit D-5), asking her to come to the [REDACTED] County Office of the WV DHHR on March 1, 2016, to provide a good cause for not participating in the class.
- 4) The Appellant did not attend the good cause appointment. On March 3, 2016, the Department sent the Appellant a letter (Exhibit D-1), informing her that a fourth sanction would be imposed against her WV WORKS cash assistance benefits "due to failure to comply with the requirements of the Personal Responsibility Contract (PRC) and/or the Self-Sufficiency Plan (SSP)."
- 5) The Appellant requested a fair hearing to protest the establishment of a fourth sanction against her in the WV WORKS program.

**APPLICABLE POLICY**

WV Income Maintenance Manual (IMM) Chapter 1, §1.25.T reads as follows:

The Personal Responsibility Contract (PRC) 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. 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.

WV IMM Chapter 1, §1.25.U reads as follows:

The Self Sufficiency Plan (SSP) 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.

Completion and signature of the SSP form DFA-SSP-1 is required to be completed within 10 days of the initial contact when the client expresses an interest in applying for WV WORKS. The participant and Worker must sign and date the initial Self-Sufficiency Plan and each change or addition when they occur. The signatures indicate their agreement to the initial Self-Sufficiency Plan and subsequent changes. The participant's signature indicates that he understands and accepts the responsibility inherent in the Program.

The Self-Sufficiency Plan 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.

WV IMM §13.9 reads as follows:

When a member of the [WV WORKS assistance group or] AG or non-recipient Work-Eligible Individual does not comply with requirements found on his or her PRC or SSP, a sanction must be imposed unless the Worker determines that good cause exists.

WV IMM §13.9.A reads as follows:

Sanctions are applied in the form of termination of benefits. The amount of the sanction is a fixed amount and is determined as follows:

First Offense .....	Ineligibility for cash assistance for one month
Second Offense .....	Ineligibility for cash assistance for three months
Third Offense .....	Ineligibility for cash assistance for six months
Fourth and All	
Subsequent Offenses .....	Ineligibility for cash assistance for twelve months

WV IMM §15.7.B reads as follows in part:

All work-eligible parents or caretakers whose households are receiving WV WORKS cash assistance are required to participant in a work activity when the individual is ready to engage in work, or when the individual has received program benefits for 24 months, whichever is earlier. When a participant has received 24 months of WV WORKS benefits, being engaged in work is an eligibility requirement. The months of WV WORKS benefits do not have to have been received consecutively. Work, for the purpose of meeting the 24-month limit, is defined as participation in one or more

activities for a minimum of 5 hours per week (averaged): ABE classes, community service, the Community Work Experience Program (CWEP), and enrollment in any educational activity including high school, high school equivalency training, college, technical or vocational school, or job skills training.

### **DISCUSSION**

The Appellant had been a recipient of WV WORKS cash assistance for more than 24 months. As such, she was required to participate in a work activity for five hours per weeks, unless a physician indicated she could not do so. The Appellant's physician completed a Physician's Summary (Exhibit D-2), outlining her ability to participate in work activities. The physician indicated on this form that the Appellant could attend a class for five hours per week.

The Appellant testified that she could not attend the SPOKES class because there was a severe snow storm which closed the county schools, so she had to remain home with her son. She testified that the schools were closed from January 18, 2016 until the first week in March. The Appellant then stated that school was not closed every day from January 18 until March 1, 2016, and stated she could have gone to the SPOKES class on the days that her son was in school.

Because the Appellant did not participate in a five hour per week training class as she agreed to do on her January 15, 2016 PRC (Exhibit D-6), the Department acted correctly to impose a fourth sanction upon her receipt of WV WORKS benefits.

### **CONCLUSION OF LAW**

The Department acted correctly to impose a fourth sanction upon the Appellant's receipt of WV WORKS because she did not attend an appointment at the [REDACTED] County office of the WV DHHR, pursuant to IMM Chapter 15, §15.7.B, Chapter 13, §§13.9 and 13.9.A and Chapter 1, §§1.25.T and 1.25.U.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to impose a fourth sanction upon the Appellant's receipt of WV WORKS cash assistance, thus discontinuing her receipt of this benefit for at least twelve months.

**ENTERED this 13<sup>th</sup> Day of May 2016.**

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**Stephen M. Baisden**  
**State Hearing Officer**