



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

September 14, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2440

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Beverly Ballengee, Greenbrier County DHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2440

**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 September 13, 2016, on an appeal filed August 1, 2016.

The matter before the Hearing Officer arises from the July 19, 2016 decision by the Respondent to terminate the Appellant's WV WORKS benefits.

At the hearing, the Respondent appeared by Beverly Ballengee, Family Support Supervisor. Appearing as a witness for the Respondent was Michelle Day, Family Support Specialist. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated July 19, 2016
- D-2 Hearing Request received August 1, 2016
- D-3 Hearing Request Notification
- D-4 Scheduling Order
- D-5 Personal Responsibility Contract and Referral for Training/Services dated May 31, 2016
- D-6 Medical Excuse Form dated June 9, 2016, Work Release Form dated June 12, 2016, and Certificate to Return to Work/School dated June 14, 2016
- D-7 Home Visit Appointment Letter dated July 18, 2016
- D-8 West Virginia Income Maintenance Manual §13.9
- D-9 Department's Summary

Appellant's Exhibits:

A-1 Medical Records from [REDACTED] and [REDACTED]
[REDACTED]

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 signed (D-5) a Personal Responsibility Contract (PRC) on May 31, 2016, to participate in the WV WORKS program.
- 2) The Appellant agreed (D-5) to attend SPOKES classes for twenty (20) hours a week, beginning June 6, 2016, as her required work activity.
- 3) The Appellant failed to attend any SPOKES classes in June and July.
- 4) The Appellant submitted doctors' excuses (D-6) exempting her from any work activity from June 9, 2016 through June 20, 2016.
- 5) The Appellant's county of residence experience major flooding from June 23, 2016, with a flood watch in effect through June 27, 2016. The Appellant was exempted from her work activity for this time period.
- 6) A second-level sanction (D-1) was proposed on July 19, 2016, due to the Appellant's failure to attend her assigned work activity.
- 7) The Appellant did not attend her Good Cause appointment scheduled for July 29, 2016.
- 8) The second-level sanction was imposed against the Appellant's WV WORKS benefits effective August 1, 2016, for failure to attend her assigned work activity without good cause.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §13.9 states that when a member of the Assistance Group (AG) or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC or Self Sufficiency Plan (SSP), a sanction must be imposed unless the worker determines that good cause exists. Once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.

The amount of the sanction is a fixed amount and is determined as follows:

First Offense -	Ineligibility for cash assistance for 1 month;
Second Offense -	Ineligibility for cash assistance for 6 months;
Third and all Subsequent Offenses -	Ineligibility for cash assistance for 12 months.

DISCUSSION

The Appellant signed a PRC attesting that she would participate in her assigned work activity of attending SPOKES classes for twenty (20) hours per week. The Appellant submitted work excuses to her worker for several days in June, however she missed eight (8) days of classes in June for which she did not provide good cause and she did not attend any classes in July 2016.

The Appellant testified that she has a heart condition and is under the care of a cardiologist. The Appellant contended that her cardiologist does not want her to work while she is undergoing testing to determine the extent of her heart condition. The Appellant submitted medical records, but did not provide a statement from her physician that she was unable to work. Therefore, good cause could not be established.

CONCLUSIONS OF LAW

- 1) Policy requires that a sanction be imposed if a WV WORKS participant fails to adhere to the terms of the Personal Responsibility Contract without good cause.
- 2) The Appellant did not attend her assigned work activity of attending SPOKES classes for twenty (20) hours per week.
- 3) Good cause for the Appellant's failure to participate in the assigned work activity could not be found.
- 4) The Appellant is subject to the applicable sanction of six (6) months of ineligibility for WV WORKS benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to terminate the Appellant's WV WORKS benefits.

ENTERED this 14th day of September 2016

Kristi Logan
State Hearing Officer