



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

December 14, 2016

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v WV DHHR  
BOR ACTION NO.: 16-BOR-3013

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,

Natasha Jemerison  
State Hearing Officer  
Member, State Board of Review

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

cc: Robert Meade, Family Support Specialist

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

██████████,

**Appellant,**

v.

**Action No: 16-BOR-3013**

**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 December 8, 2016, on an appeal filed November 14, 2016.

The matter before the Hearing Officer arises from the decision by the Respondent to deny WV WORKS Age of Child exemption

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

**Department's Exhibits:**

None

**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's household is a recipient and participant in the Department's WV WORKS cash assistance program.
- 2) The household consists of two (2) parents (Appellant and [REDACTED]) with at least one (1) common child, born on September 1, 2016.
- 3) The Appellant is excluded from the WV WORKS payment because he is a Supplemental Security Income (SSI) recipient.
- 4) [REDACTED] is required by policy to meet the program work requirements unless she meets a good cause exemption.
- 5) On November 2, 2016, the Department tried to place [REDACTED] in the Strategic Planning in Occupational Knowledge for Employment and Success (SPOKES) program.
- 6) The circumstances of the household put them in the category of a one-parent family, but this definition is used only to determine the required level of participation.
- 7) The household was eligible for a twelve-week postpartum good cause exemption beginning September 1, 2016, and ending December 1, 2016.
- 8) The Appellant contends that because their common child is under twelve (12) months of age, they should be eligible for the Program's Age of Child work component.
- 9) The Age of Child component provides a good cause exemption from work requirements for a single custodial parent caring for a child under the age of twelve (12) months.
- 10) Neither the Appellant nor [REDACTED] meet the definition of a single custodial parent as the parents cohabitate and have custodial rights over their common child.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) §24.3 instructs that each adult and emancipated minor who receives WV WORKS benefits and non-recipient work-eligible individual must meet a work requirement at a minimum rate of participation.

The definitions below are used only for the Worker to determine the required level of participation, based on the family's circumstances, and should not be used for any other purpose.

One-parent families include, but are not limited to the following situations:

Families with two (2) parents with a common child living together, and one is excluded from the WV WORKS payment due to one of the following reasons:

- Minor parent who is not the head-of-household
- Ineligible alien due to immigration status
- Supplemental Security Income (SSI) recipient

WV IMM §13.10.A instructs that the Age of Child component is used only for a single custodial parent caring for a child under the age of one (1). It is a good cause period for a maximum of twelve (12) months lifetime, and it ends when the child attains the age of twelve (12) months. It does not apply during the pregnancy period. This good cause reason may be applied when an applicant has given birth to a child and the child is under twelve (12) months of age.

WV IMM §13.10.F reads that an individual may be granted good cause for failing to participate in an activity during the twelve-week postpartum period following the birth of any additional child. Anytime other than the usual twelve-week period requires medical documentation of the expected return to work date.

### **DISCUSSION**

The Appellant filed a request for a fair hearing due to the Department's determination that the household is not eligible for the Age of Child work component. The Age of Child component grants a WV WORKS participant good cause for failure to participate in an activity.

The Age of Child component is used only for a single custodial parent caring for a child under the age of one (1). The Appellant's household consists of two (2) parents. They have a common child that was born on September 1, 2016. The Appellant is excluded from the WV WORKS payment because he is a Supplemental Security Income (SSI) recipient. Policy explains that a family with two (2) parents with a common child is considered a one-parent family if one (1) of the parents is excluded from the WV WORKS payment. Although the circumstances of the household put them in the category of a one-parent family, this definition is used only to determine the required level of participation.

The Appellant testified that [REDACTED], the child's mother, should not be required to participate in an activity because their child is under the age of one (1). [REDACTED] stated that when they applied for WV WORKS on November 2, 2016, they were told she would not have to do an activity for two (2) months. The Department's representative stated he had no knowledge of another worker telling [REDACTED] she would not have to participate in an activity. The Appellant also stated they did not have transportation. The Department's representative explained that bus passes and travel reimbursement is available through the WV WORKS program.

[REDACTED] is not a single custodial parent and is not eligible for the Age of Child component. However, [REDACTED] gave birth to a child on September 1, 2016. Policy allows good cause for individuals during the twelve-week postpartum period following the birth of a child. From September 1, 2016 through December 1, 2016, [REDACTED] was not required to participate in an activity.

Ms. [REDACTED] twelve-week postpartum period has ended, and anytime other than the usual twelve-week period requires medical documentation of the expected return to work date. The Appellant is excluded from participation in an activity and can care for the children. [REDACTED] is not eligible for the Age of Child component and must complete the required participation hours for a one-parent household.

### **CONCLUSIONS OF LAW**

- 1) Because the household does not consist of a single custodial parent, the Age of Child component is not applicable.
- 2) [REDACTED] twelve-week postpartum period granted her good cause from participation in an activity from September 1, 2016 through December 1, 2016.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's determination that the Age of Child component cannot be used.

**ENTERED this 14<sup>th</sup> day of December 2016.**

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**Natasha Jemerison**  
**State Hearing Officer**