



**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**

February 4, 2016



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-3699

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: Christina Brown, Family Support Specialist

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

██████████,

Appellant,

v.

Action Number: 15-BOR-3699

**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 February 3, 2016, on an appeal filed December 21, 2015.

The matter before the Hearing Officer arises from the November 3, 2015 decision by the Respondent to discontinue the Appellant's receipt of WV WORKS cash assistance due to the imposition of a third sanction.

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

Department's Exhibits:

- D-1 Copies of WV WORKS Personal Responsibility Contracts (PRCs) and Self-Sufficiency Plans (SSPs), signed and dated by Appellant on July 2, 2015, August 21, 2015, September 11, 2015, and September 28, 2015
- D-2 Letter from ██████████, MA, Process Strategies, ██████████ WV, dated October 14, 2015
- D-3 Case comments from Appellant's case record, from October 26 through December 8, 2015
- D-4 Individual comments from Appellant's WV WORKS work activity record, from October 7 through November 9, 2015

- D-5 Appointment letter from Department to Appellant dated October 30, 2015, listing office appointment date of November 9, 2015
- D-6 Appointment letter from Department to Appellant dated November 3, 2015, giving Appellant good cause appointment date of November 9, 2015
- D-7 WV WORKS Case Benefit Summary, showing months of WV WORKS cash assistance issuance to Appellant
- D-8 Monthly time sheets for Appellant, showing her participation in work activities from July through October 2015
- D-9 Support Service Payments print-out, showing support payments paid to Appellant from October 1999 through October 2015
- D-10 WV DHHR Income Maintenance Manual, Chapter 13, §13.9

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 had been a recipient of WV WORKS cash assistance benefits since July 2015 (Exhibit D-7). As a requirement of her participation in the WV WORKS program, she participated in a work activity.
- 2) On October 14, 2015, a psychologist at Process Strategies, a mental health services practice in [REDACTED] WV, submitted a letter (Exhibit D-2) to the Appellant's WV WORKS worker indicating it would be in her best interests to stop attending her work activity for "the next few weeks if possible." The worker removed her from the activity.
- 3) On October 23, 2015, the Appellant went to the WV DHHR, [REDACTED] County office, for an appointment to update her WV WORKS Self-Sufficiency Plan (SSP). While there, she reported to her WV WORKS worker that she had a possibility of employment and would know if she had this job by October 26 or 27, 2015 (Exhibit D-5). Her worker gave her an appointment to return to the office on October 30, 2015, to determine if she got the job or if she and the worker needed to find her another work activity.
- 4) The Appellant did not attend the October 30, 2015 appointment. The Department notified her of its proposal to place a sanction upon her receipt of WV WORKS cash assistance for failing to keep her October 30 appointment unless she could establish good cause for her failure. The Appellant was notified that her cash assistance would be terminated after November 2015 (Exhibit D-6).

- 5) The Department gave the Appellant a “good cause” appointment, a meeting wherein she would have the opportunity to come to the [REDACTED] DHHR office and explain why she did not attend the October 30 appointment. Her good cause appointment was scheduled for November 9, 2015 (Exhibit D-6, page two). She did not attend this appointment.
- 6) The Department placed the third sanction upon the Appellant’s receipt of WV WORKS cash assistance. Her WV WORKS benefits ended at the end of November 2015.

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 OffenseIneligibility for cash assistance for one month
Second OffenseIneligibility for cash assistance for three months
Third OffenseIneligibility for cash assistance for six months
Fourth and AllIneligibility for cash assistance for twelve months
Subsequent Offenses

DISCUSSION

The Appellant had been removed from work activities at the recommendation of a health care professional. While the Appellant was removed from the work activities, she went to the ██████████ County office of the WV DHHR and reported to her WV WORKS worker that she had the possibility of a job. Her worker gave her an appointment to return to the office on October 30, 2015, to determine if she had been hired (Exhibit D-4). The Appellant did not return to the office on October 30. The Department made the Appellant a good cause appointment for November 9, 2015, so she could have the opportunity to explain why she did not attend the October 30 appointment. The Appellant did not attend this hearing, so her WV WORKS cash assistance was sanctioned.

The Appellant did not contest that this was her third sanction. She maintained that she should not have been sanctioned for not attending a work activity because her requirement for participating in such activities was temporarily suspended upon the recommendation of her psychologist (Exhibit D-2).

The Department's representative argued that the Appellant was not sanctioned for failing to attend a work activity. She testified that the Appellant was sanctioned for not attending the October 30 appointment to determine if she had found a job. She submitted as evidence a series of Personal Responsibility Contracts (PRCs) and Self-Sufficiency Plans (SSPs) signed by the Appellant and Department workers from July 2 through September 28, 2015 (Exhibit D-1). Each of them contains the statement that the Appellant agrees to keep all appointments at the WV DHHR. The Appellant signed each PRC and SSP.

Because the Appellant did not attend a meeting at the WV DHHR scheduled for October 30, 2015, the Department acted correctly to impose a third sanction upon her receipt of WV WORKS benefits.

CONCLUSION OF LAW

The Department acted correctly to impose a third sanction upon the Appellant's receipt of WV WORKS because she did not attend an appointment at the ██████████ County office of the WV DHHR, pursuant to IMM 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 third sanction upon the Appellant's receipt of WV WORKS cash assistance, thus discontinuing her receipt of this benefit for at least six months.

ENTERED this 4th Day of February 2016.

Stephen M. Baisden
State Hearing Officer