



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL

Jim Justice  
Governor

BOARD OF REVIEW  
Raleigh District DHHR  
407 Neville Street  
Beckley, WV 25801

Bill J. Crouch  
Cabinet Secretary

January 24, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 17-BOR-2913

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Robert Meade, [REDACTED] County DHHR

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

██████████,

**Appellant,**

v.

**Action Number: 17-BOR-2913**

**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 January 16, 2018, on an appeal filed December 1, 2017.

The matter before the Hearing Officer arises from the November 17, 2017, decision by the Respondent to terminate the Appellant's WV WORKS benefits due to the imposition of a sanction.

At the hearing, the Respondent appeared by Robert Meade, 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 November 17, 2017

D-2 West Virginia Income Maintenance Manual §§14.8, 18.7.2, 18.7.3.D, and 18.7.4.C

D-3 Case Summary Screen Print, Case Benefit Summary Screen Print, Individual Comments for October and November 2017, Case Comments for September 2017 through December 2017

D-4 Office Interview Appointment Letter dated October 19, 2017, and Notice of Sanction and Good Cause Appointment Letter dated November 16, 2017

D-5 Personal Responsibility Contract and Self-Sufficiency Plan dated September 22, 2017, and ██████████ County Sign In Sheet for November 15, 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 applied for WV WORKS benefits on September 22, 2017.
- 2) The Appellant signed a Personal Responsibility Contract on September 22, 2017, agreeing to take the TABE (Test of Adult Basic Education) assessment test on October 18, 2017 (Exhibit D-5).
- 3) The Respondent sent notice to the Appellant on October 19, 2017, advising that she was rescheduled to take the TABE assessment test on November 15, 2017 (Exhibit D-4).
- 4) A first-level sanction was proposed against the Appellant's WV WORKS benefits on November 16, 2017, when the Appellant failed to keep her appointment to take the TABE test (Exhibit D-4).
- 5) The Appellant attended a good cause appointment on December 1, 2017, and advised her caseworker that she did not receive the TABE test appointment letter (Exhibit D-3).
- 6) The Appellant's caseworker did not grant good cause to the Appellant for failure to keep a scheduled appointment and the first-level sanction was imposed.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §14.8 states that when a member of the assistance group (AG) or non-recipient Work-Eligible Individual does not comply with requirements found on his Personal Responsibility Contract (PRC) or Self-Sufficiency Plan (SSP), a sanction must be imposed unless the Case Manager determines that good cause exists.

Sanctions are applied in the form of termination of WV WORKS benefits. The duration of the sanction period is determined as follows:

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

WV WORKS sanctions are applied to all Work-Eligible members of a WV WORKS case, not only to the member who causes the sanction.

West Virginia Income Maintenance Manual §14.9 states the Case Manager has considerable discretion in imposing a sanction or granting good cause. The Case Manager must determine whether or not the participant is meeting the requirements, attempting to comply with the best of his ability, understands the requirements, and the sanction process. The Case Manager may determine that the requirement was inappropriate based upon additional assessment. In addition, the Case Manager may determine that not applying a sanction in a particular situation provides more motivation for future participation than the imposition of a sanction.

Failure or refusal to comply, without good cause, results in imposition of a sanction and a notice of adverse action must be issued, which includes scheduling the good cause interview. The appointment date for the good cause interview must be scheduled at least seven calendar days after the day following the date the letter is requested in the eligibility system or the day following the date a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the participant. If the appointment is scheduled for a date prior to the seven calendar days, the participant and the Case Manager must agree on the appointment date.

West Virginia Income Maintenance Manual §18.7.3.D states when an appointment is scheduled in writing and the applicant misses the appointment, a sanction may be imposed without making a second appointment, unless the applicant has good cause or contacts the Case Manager to reschedule the appointment. When an appointment is unscheduled, a sanction may not be imposed for failure to be available. Instead, the Case Manager must schedule a second appointment in writing. Failure, without good cause, to keep the second appointment or reschedule it results in a sanction.

### **DISCUSSION**

Pursuant to policy, when an appointment is scheduled in writing and the recipient misses the appointment, a sanction may be imposed, unless the applicant has good cause or contacts the caseworker to reschedule the appointment.

The Appellant was scheduled to attend an appointment to take the TABE assessment on November 15, 2017. The Appellant did not attend the appointment or request that the appointment be rescheduled. The Respondent imposed a first sanction against the Appellant's WV WORKS benefits.

The Appellant contended that she never received the appointment letter for the TABE assessment, and reported no changes to her mailing address.

Caseworkers have considerable discretion in granting good cause for failure to attend an assigned activity or scheduled appointment. The Appellant's caseworker did not grant good cause to the Appellant for her failure to attend a scheduled appointment. Although the Appellant purported having no knowledge of the scheduled appointment, the Respondent's action to impose a sanction was in accordance with policy.

### **CONCLUSIONS OF LAW**

- 1) A sanction may be imposed against a WV WORKS recipient for a failure to attend a scheduled appointment without good cause.
- 2) The Appellant failed to attend a scheduled appointment to take the TABE assessment.
- 3) The Respondent did not grant good cause to the Appellant and imposed a first-level sanction against her WV WORKS benefits.
- 4) The Respondent acted in accordance to policy in imposing a sanction against the Appellant's WV WORKS benefits.

### **DECISION**

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

**ENTERED this 24<sup>th</sup> day of January**

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**Kristi Logan**  
**State Hearing Officer**