



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

**Bill J. Crouch  
Cabinet Secretary**

**BOARD OF REVIEW  
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**Jolynn Marra  
Interim Inspector General**

November 26, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.:19-BOR-2421

Dear Mr. [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,

Danielle C. Jarrett  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29  
cc: Lisa Snodgrass, Department Representative

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

[REDACTED],

**Appellant,**

v.

**Action Number: 19-BOR-2421**

**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 [REDACTED]. 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 October 15, 2019, on an appeal filed September 20, 2019.

The matter before the Hearing Officer arises from the September 11, 2019 decision by the Respondent to deny the Appellant's request for support service payment for a computer and his August 2019 travel reimbursement.

At the hearing, the Respondent appeared by Lisa Snodgrass, Family Support Specialist. Appearing as a witness for the Respondent was Tanya Tyler, Family Support Specialist Supervisor. 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 September 11, 2019
- D-2 BA Voucher Request, dated August 26, 2019
- D-3 [REDACTED] receipt, dated August 6, 2019
- D-4 Email Correspondence, dated August 27, 2019
- D-5 Student Schedule for [REDACTED]  
( [REDACTED] ), dated August 27, 2019
- D-6 Participant Timesheet for College classes at [REDACTED], dated August 1, 2019  
through August 30, 2019
- D-7 Participant Timesheet for Adult Basic Education (ABE) classes at [REDACTED],  
dated August 1, 2019 through August 30, 2019
- D-8 Participant Timesheet for [REDACTED] ( [REDACTED] ), dated August 26, 2019  
through August 30, 2019

- D-9 [REDACTED] Acceptance letter, dated August 9, 2019; and [REDACTED] Student Schedule Form, dated September 5, 2019
- D-10 Email Correspondence, dated September 4, 2019; and Email Correspondence, dated August 21, 2019
- D-11 [REDACTED] Concise Student Schedule, dated August 12, 2019
- D-12 eRAPIDS computer system screenshot printout of Self-Sufficiency Plan
- D-13 eRAPIDS computer system screenshot printout of Individual Comments, dated July 15, 2019 through September 23, 2019
- D-14 West Virginia Income Maintenance Manual (WV IMM) §§ 18.16.1.F through 18.16.2; WV IMM §§ 18.16.2.A through 18.16.2.C; WV IMM §§ 18.19 through 18.19.3.B; WV IMM §§ 18.19.3.C through 18.19.5.F; and WV IMM §§ 1.1 through 1.3

**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 is a recipient of WV Works/Cash Assistance benefits.
- 2) On August 6, 2019, the Appellant and Respondent executed a WV Works/Cash Assistance Personal Responsibility Contract (PRC) and Self-Sufficiency Plan (SSP). (Exhibit D-13)
- 3) The Appellant agreed to maintain 85 hours per month in his assigned WV Works/Cash Assistance activity, until September 30, 2019. (Exhibit D-13)
- 4) On August 12, 2019, the Appellant submitted verification to the Department that he was enrolled at [REDACTED] ([REDACTED]) as a full-time student, taking 12 credit hours. (Exhibit D-11)
- 5) The Appellant's [REDACTED] [REDACTED] class schedule runs from August 19, 2019 through December 5, 2019. (Exhibit D-11)
- 6) On August 20, 2019, the Appellant submitted a request for support service payment to purchase a computer with a printer and cartridges. (Exhibits D-2, D-3, and D-13)
- 7) On August 26, 2019, notice of denial for support service payment to purchase a computer with a printer and cartridges was issued to the Appellant with the reconsideration in 30 days. The notice stated, "client did not do well in summer school and according to his instructors he caused problems." (Exhibit D-2)

- 8) On August 26, 2019, the Appellant was enrolled at [REDACTED] as a part-time college student taking six (6) credit hours, due to academic probation. (Exhibits D-4, D-5, and D-13)
- 9) On August 26, 2019, the Appellant was enrolled in one online course at [REDACTED], which required access to a computer. (Exhibit D-5)
- 10) On August 26, 2019, the Appellant started classes at [REDACTED] ([REDACTED]), as a full-time student. (Exhibits D-9)
- 11) On September 5, 2019, the Appellant submitted participation activity timesheets for August 2019, for [REDACTED] and [REDACTED] Adult Basic Education (ABE) Center. (Exhibits D-6 and D-7)
- 12) The Appellant completed 78.5 of participation attendance hours (41.5 hours at [REDACTED] [REDACTED] and 37 hours at [REDACTED] ABE Center) for August 2019. (Exhibits D-6 and D-7)
- 13) The Appellant completed 78.5 monthly hours of unsupervised study time participation for August 2019.
- 14) The Appellant satisfied his activity participation requirement for August 2019, by completing a total of 157 monthly hours.
- 15) On September 11, 2019, the Appellant contacted the local Department's office and inquired about his request for travel reimbursement for August 2019 participation. (Exhibit D-13)
- 16) On September 11, 2019, a second notice of denial for support service payment for a computer was issued to the Appellant and indicated that his worker "will reconsider in 30 days". (Exhibits D-1 and D-13)
- 17) On September 16, 2019, the Appellant's PRC and SSP was updated. (Exhibit D-13)
- 18) The Appellant's updated assigned activity required participation at [REDACTED] for 128 monthly hours. (Exhibit D-13)
- 19) As of September 16, 2019, the Appellant was attending one-night class at [REDACTED] [REDACTED]. (Exhibit D-13)
- 20) As of the date of this hearing, the Appellant's request for support service payment for a computer was not reconsidered in accordance with the September 11, 2019 notice.
- 21) As of the date of this hearing, the Appellant's request for support service payment for his August 2019 participation for travel reimbursement was not approved.

## **APPLICABLE POLICY**

WV IMM § 18.9.1.C.2 explains that if the educational activity is college, it is limited to one two- or four-year undergraduate degree program unless otherwise agreed upon by the Case Manager and the supervisor that the further addition of education will help the employability of the participant in finding employment and becoming self-sufficient. Participants in educational activities must be making satisfactory progress as determined by the program in which they are enrolled.

WV IMM § 18.16.1.F reads the participant must submit monthly timesheet, DFA-TS-12, to document the number of days and hours he has attended during the month. The timesheet must be signed by the participant and the education supervisor. Educational staff may be responsible for daily supervision of participants for verification of hours. The Case Manager will request enrollment and schedule information at the beginning of each term. Copies of grades are required at the completion of each term to ensure the participant is maintaining satisfactory progress.

WV IMM § 18.16.2 explains although college attendance does not count toward meeting the federal participation requirements, the West Virginia State Code specifies that full-time college enrollment and attendance is an acceptable participation activity for the WV Works program.

WV IMM § 18.16.2.B Participation Calculation provides in part:

The calculation of College hours of participation follows the same process as Vocational Education Training.

Participation Calculation Example: Mr. Hickory attends class 60 hours for the month. The following hours of participation are entered in the eligibility system:

(60) attendance hours + (60) unsupervised study hours = 120 total monthly participation hours.

WV IMM § 18.19 reads that payment for support services is authorized to assist WV Works participants in securing or maintaining employment or participating in other activities. The type of payment and amount of any payment made must be based on need, without receiving the payment in the amount the participant is not able to participate in an activity. The participant may also request services as the needs arise. Disposition to approve or deny the application for supportive services must be made within 10 working days of receipt of the signed timesheet or request. Support services may be issued any month for which a WV Works payment is made.

WV IMM § 18.19.2 reads the amount of the support service payment is based on the need, but may not exceed the maximum amounts. Requests for support service payment or bonus payment received more than three (3) months past the month of participation or achievement are ineligible. When a request for support service payment has been made, but no payment is issued, the Case Manager must notify the participant of the denial using form DFA-WVW-NL-2. The Case Manager must provide a narrative explanation of the reason the payment is denied in terms the participant can easily understand.

WV IMM § 18.19.3 explains the Case Manager must determine whether or not a need for support services exists. When the Case Manager identified a need, it is the Case Manager's responsibility to inform the participant about unavailable support services and to follow through to ensure the need is met when possible. Under no circumstances must the participant be required to identify the specific support service he needs as a condition of receipt. All support service payments, except transportation, must be approved by a Family Support Specialist Supervisor.

WV IMM § 19.18.3.C explains that tools and equipment may be purchased for authorized training and education activities. Verification of the cost must be provided. Support service payment for tools must not exceed the limitations of \$1,000 per lifetime.

WV IMM § 18.19.3.H explains that transportation is paid to participants who are attending an allowable activity for each day that a transportation payment is issued. When participants use private transportation, payments are intended to cover more than the cost of fuel. Daily payments for travel include a portion of the following expenses: fuel, insurance, vehicle maintenance, minor repairs and parking. Transportation payments may not exceed \$15 per day or more than \$345 per month.

### **DISCUSSION**

The Appellant is a recipient of WV Works/Cash Assistance benefits. On September 11, 2019, the Respondent issued notice to the Appellant advising him that his request for support service payment for a computer with a printer and cartridges was denied and would be reconsidered in thirty (30) days. The Appellant contested the Department's decision to deny his support service request. In addition to the issue of denial for support service payment for a computer, the Appellant contested the Department's failure to provide him with travel reimbursement for his August 2019 activity participation.

On August 6, 2019, the Appellant and the Respondent executed a WV Works/Cash Assistance PRC and SSP. The Appellant agreed to maintain 85 hours per month as his assigned WV Works/Cash Assistance activity, until September 30, 2019. The Appellant submitted verification to the Department that he was enrolled at [REDACTED] as a full-time student, taking 12 credit hours. The Appellant's [REDACTED] classes run from August 19, 2019 through December 5, 2019.

On August 20, 2019, the Appellant submitted a request for support service payment to purchase a computer with a printer and cartridges. The Appellant testified he needed a computer because he was required to complete online coursework at [REDACTED].

The Respondent testified the Department received an email correspondence on August 21, 2019, from the Appellant's instructor that "he missed 8 classes and would sometimes leave early from class; therefore, he was not able to complete or turn in many of his assignments in due to attendance." The Respondent testified the Appellant was not meeting satisfactory progress in his assigned activity. The redaction of the August 21, 2019 email correspondence between the Appellant's instructor and the Department, is not justified. The Respondent's unjustified redaction

of email correspondence with the Appellant's instructor violates the Appellant's right to cross-examine witnesses pursuant to the West Virginia Common Chapters. While the Hearing Officer is not bound by State Rules of Evidence, the Hearing Officer may consider them when determining admissibility of evidence. Although the Hearing Officer has the capacity to review written hearsay, without the knowledge of statement authors, there is no way for this Hearing Officer to gain needed information regarding the believability and reliability of the instructor's email correspondence. Therefore, no weight was given to the August 21, 2019, email correspondence in the decision of this Hearing Officer.

On August 26, 2019, notice of denial for support service payment to purchase a computer with a printer and cartridges was issued to the Appellant with the reconsideration of 30 days. The notice indicated the "client did not do well in summer school and according to his instructors he caused problems." At the time of the notice, evidence established the Appellant was enrolled at [REDACTED] as a part-time college student taking six (6) credit hours. The reduction in hours from twelve (12) to six (6) was due to academic probation. At that time, the Appellant started classes at [REDACTED] as a full-time student and was enrolled in one online course at [REDACTED], which required access to a computer.

On September 5, 2019, the Appellant submitted verification to the Department that he was attending [REDACTED] as a full-time student. On this same day, the Appellant submitted his participation activity timesheets for August 2019. The Appellant completed 41.5 monthly hours of participation at [REDACTED] and 37 monthly hours of participation at [REDACTED] ABE Center for August 2019. The Appellant completed a total of 78.5 monthly participant hours for August 2019. The Respondent argued that the Appellant did not meet the required participation of 85 hours for the month of August 2019. Policy explains that because the Appellant completed 78.5 monthly participation hours, the Respondent is required to provide an additional 78.5 monthly hours of unsupervised study time. The Appellant satisfied his activity participation requirement for August 2019, by completing a total of 157 monthly hours.

On September 11, 2019, a second notice of denial for support service payment was issued to the Appellant advising him that his worker "will reconsider 30 days". On this same day, the Appellant contacted the local Department's office inquiring about his request for travel reimbursement for August 2019 participation.

The Appellant testified the reason he was unable to complete and turn in many of his assignments was because he did not have the tools he needed, such as a computer. Policy states that payment for support service is authorized to assist WV Works participants in securing or maintaining employment or participating in other activities. Policy explains that the Appellant must be making satisfactory progress in his educational activities as determined by the program in which he is enrolled. The Respondent submitted credible evidence from August 26, 2019, that the Appellant was not making satisfactory academic progress as his hours were reduced from 12 to 6 due to academic probation. This Hearing Officer found the Respondent's witness testimony that support service payment for a computer was denied with the reconsideration in thirty (30) days was because the Appellant was not making satisfactory progress in his assigned participation due to academic probation.

On September 16, 2019, the Appellant's PRC and SSP was updated. The Appellant's updated activity required participation at [REDACTED] for 128 monthly hours. The Appellant is also attending one-night class at [REDACTED]. It is noted, as of the date of the hearing, the Appellant's request for support service payment for a computer was not reconsidered in accordance with the September 11, 2019 notice.

The Appellant did not receive his request for travel reimbursement for August 2019 activity participation. The Respondent testified it takes the Department three (3) weeks to issue travel reimbursement payments. However, evidence established the Respondent was in possession of the timesheets since September 5, 2019, in excess of three weeks. The Appellant established that he was eligible to receive support service payment travel reimbursement because he satisfied his August 2019 monthly activity participation requirement. As of the date of the hearing, the Appellant's request for support service payment for his August 2019 participation for travel reimbursement was not approved.

### **CONCLUSIONS OF LAW**

- 1) Because the Appellant completed his activity, as required, of 85 monthly participation hours, he complied with his PRC and SSP requirements.
- 2) Because policy indicates that support service payment for travel reimbursement can be issued any month for which a WV Works/Cash Assistance payment is made to assist WV Works participants in education activities, the Respondent failed to issue support service payment for travel for which the Appellant was entitled.
- 3) Because the Appellant was on academic probation for [REDACTED], the Respondent was correct on August 26, 2019, to deny the Appellant's request for support service payment for a computer with the reconsideration in 30 days.
- 4) On September 11, 2019, the Respondent issued a notice of denial for support services payment for a computer that his worker would reconsider the request in 30 days, the Respondent failed to reconsider the Appellant's request for a computer in accordance with the notice.



## **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Department's August 26, 2019 decision to deny the Appellant's request for support service payment for a computer. It is further **ORDERED** that this matter is hereby **REMANDED** to the Department for reconsideration of the Appellant's request for a computer as outlined in the September 11, 2019 notice and to determine the amount owed to the Appellant for his August 2019 travel reimbursement.

**ENTERED this \_\_\_\_\_ day of November 2019.**

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**Danielle C. Jarrett**  
**State Hearing Officer**