



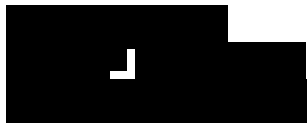
**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch
Cabinet Secretary**

**Board of Review
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-0955 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

November 10, 2020



RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2217

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Rose Spears, Department Representative

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

████████████████████,

Appellant,

v.

Action Number: 20-BOR-2217

**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 October 27, 2020, on an appeal filed September 28, 2020.

The matter before the Hearing Officer arises from the September 14, 2020 decision by the Respondent to impose a WV WORKS sanction against the Appellant resulting in the termination of the Appellant's WV WORKS benefits.

At the hearing, the Respondent appeared by Rose Spears. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|--|
| D-1 | Department's case summary |
| D-2 | Notice of Pending Closure of Benefits, dated September 14, 2020; Notice dated September 15, 2020 |
| D-3 | WV WORKS – Personal Responsibility Contract (PRC) / Self-Sufficiency Plan, dated August 3, 2020 |
| D-4 | Participant Time Sheets for the Appellant – September 2020 and August 2020 |

- D-5 Email excerpts regarding the Appellant's case
- D-6 West Virginia Income Maintenance Manual (WVIMM), Chapter 1, §1.5.20
- D-7 West Virginia Income Maintenance Manual (WVIMM), Chapter 18, §18.8 (excerpt)
- D-8 West Virginia Income Maintenance Manual (WVIMM), Chapter 14, §14.9 (excerpt)
- D-9 Case Comments from the Respondent's data system regarding the Appellant's case, entry dated August 3, 2020

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 was a recipient of WV WORKS benefits.
- 2) The Respondent and the Appellant updated the Personal Responsibility Contract (PRC) for the Appellant by phone on August 3, 2020. (Exhibits D-3 and D-9)
- 3) This PRC (Exhibit D-3) provided a list of assignments and activities which includes the assignment to "COMPLETE EXCEL HOMEWORK &RTN [*sic*] ON TIME," with a listed start date of August 3, 2020.
- 4) The Appellant's PRC (Exhibit D-3) noted that, "I understand that if I do not cooperate/participate with all the assignments/activities listed above that I will be penalized."
- 5) The Appellant's time sheets for August 2020 and September 2020 (Exhibit D-4) note no activity for either month.
- 6) The Respondent confirmed the Appellant did not complete the required homework assignments (Exhibit D-5) as of September 1, 2020.
- 7) The Respondent sent the Appellant a Notice of Pending Closure of Benefits, dated September 14, 2020, which set a September 23, 2020 appointment for a case staffing meeting. (Exhibit D-2)

- 8) The Respondent additionally sent the Appellant a September 15, 2020 notice which reads, in part, “A sanction will be applied to your assistance group effective 10/01/20. This is the second sanction and will continue for 6 months. Your WV WORKS benefits will stop during the sanction period.” (Exhibit D-2)
- 9) The September 15, 2020 notice (Exhibit D-2) indicated the Appellant “...failed to meet the terms of the Personal Responsibility Contract by FAILING TO COMPLETE AN ASSIGNMENT.”
- 10) The September 15, 2020 notice (Exhibit D-2) additionally advised the Appellant that her WV WORKS benefits would stop September 30, 2020, and provided the basis for this action as “A second sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC) and/or the Self Sufficiency Plan (SSP).”

APPLICABLE POLICY

West Virginia Income Maintenance Manual, §1.5.20 provides in part:

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. See Section 14.8 for information about sanctions.

West Virginia Income Maintenance Manual, §14.8 provides in part:

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.

West Virginia Income Maintenance Manual, §14.8.1 notes that the penalty for a second offense sanction is “Ineligibility for cash benefits for 6 months.”

DISCUSSION

The Appellant has appealed the Respondent’s decision to terminate her WV WORKS benefits as a result of applying a 2nd sanction for non-compliance with her Personal Responsibility Contract (PRC). The Respondent must show by a preponderance of the evidence that it properly terminated WV WORKS benefits on this basis.

The Appellant was required to complete homework assignments by the terms of her August 3, 2020 PRC (Exhibit D-3). The Respondent received time sheets showing the Appellant’s participation in her assigned activity for the months of August and September 2020 which document zero activity hours in both months (Exhibit D-4). Rose Spears, the Case Manager

assigned by the Respondent to the Appellant's case, contacted Robert Dillon and Melissa Bias (Exhibit D-5) regarding the Appellant's participation in the EXCEL class and the assigned homework. Ms. Spears confirmed the Appellant had not completed the required homework. There was no dispute of the PRC non-compliance or the resulting sanction count. The Appellant testified that she could not complete the assigned homework because her children were home with her. The Respondent did not grant good cause for this excuse, and must apply a sanction for PRC non-compliance without good cause.

The Respondent correctly applied a second sanction to the Appellant's WV WORKS case for failure to comply with the terms of her PRC. The Respondent correctly terminated WV WORKS based on this sanction.

CONCLUSIONS OF LAW

- 1) Because the Appellant did not comply with the terms of her PRC, the Respondent must impose a sanction against the Appellant's WV WORKS case.
- 2) Because the sanction in question is a second sanction, the Respondent correctly terminated the Appellant's WV WORKS benefits for six (6) months.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate WV WORKS benefits based on a WV WORKS PRC sanction.

ENTERED this ____ Day of November 2020.

Todd Thornton
State Hearing Officer