



**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**

December 17, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2441

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: Deborah Marcum, DHHR / Elizabeth Kennedy DHHR

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

████████████████████,

Appellant,

v.

Action No.: 20-BOR-2441

**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 December 3, 2020, on an appeal filed October 13, 2020.

The matter before the Hearing Officer arises from the October 13, 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 Deborah Marcum. The Appellant appeared *pro se*. Appearing as a witness on the Appellant's behalf was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|---|
| D-1 | WV WORKS Self-Sufficiency Plan Documents for ██████████ |
| D-2 | WV WORKS Self-Sufficiency Plan Documents for ██████████ |

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 with [REDACTED].
- 2) The Appellant and [REDACTED] were required to participate in an activity to receive WV WORKS benefits.
- 3) The Appellant signed a Personal Responsibility Contract (PRC) / Self-Sufficiency Plan (SSP) on October 2, 2020. (Exhibit D-1)
- 4) On this PRC, the Appellant agreed to “Attend TASC classes...” and “Obtain 75 hours per month. (Exhibit D-1)
- 5) Mr. [REDACTED] additionally agreed to obtain 75 activity hours per month attending TASC classes.
- 6) The Appellant and Mr. [REDACTED] changed the terms of their PRC and on October 9, 2020, and Mr. [REDACTED] agreed to “Attend TASC classes...” and “Obtain 150 hours per month.” (Exhibit D-2)
- 7) Mr. [REDACTED] completed approximately eight (8) activity hours in October 2020. (Exhibit D-2, October 2020 Participant Time Sheet)
- 8) The Respondent notified the Appellant, on or about October 13, 2020, that her WV WORKS benefits would be terminated effective November 1, 2020, due to a second WV WORKS sanction resulting from non-compliance with the participation requirement of her PRC/SSP.
- 9) The Respondent’s notice to the Appellant scheduled a good cause appointment to discuss the WV WORKS second sanction.
- 10) The Appellant and Mr. [REDACTED] reported to the Respondent, on October 13, 2020, and during their good cause appointment, that they were disabled.
- 11) The Respondent requested the Appellant and Mr. [REDACTED] provide verification in the form of physicians’ statements to support their statements regarding the inability to work.
- 12) The Appellant and Mr. [REDACTED] did not provide physicians’ statements to the Respondent prior to the effective date of the WV WORKS closure.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM), §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.

WVIMM, §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.

WVIMM, §14.8.1 notes that the penalty for a second offense sanction is “Ineligibility for cash benefits for 6 months.”

WVIMM, §7.2.1 provides in part:

Verification of a client’s statement is required when...Policy requires routine verification of specific information...

WVIMM, §7.2.3 reads, in pertinent part, “The primary responsibility for providing verification rests with the client.”

Chapter 7, §7.3 of the WVIMM provides a table which identifies items to be verified, which programs require verification, when information must be verified, and possible sources of verification. Item #37 of this table identifies “Illness, Impairment, or Unfit for Work” as a category that must be verified for WV WORKS, “Prior to temporarily exempting the individual from meeting the work participation requirement, and prior to determining good cause for failure to meet the 24-month work requirement.”

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’s household was required to complete 150 activity hours per month. The Appellant initially divided this requirement with [REDACTED], the second parent in the Appellant’s household. The Appellant signed a PRC agreeing to complete her 75 hours in TASC classes on October 2, 2020. Mr. [REDACTED] agreed to complete the remaining 75 hours per month. The PRC for the household was changed on October 9, 2020, when Mr. [REDACTED] agreed to take over responsibility for the full activity requirement for the household.

Mr. [REDACTED] signed an October 9, 2020 PRC agreeing to attend TASC classes and obtain 150 hours per month in this activity. Mr. [REDACTED] completed just over eight (8) hours in October

2020. The Respondent was advised of Mr. [REDACTED] attendance during October 2020, and determined on October 13, 2020, that the participation requirement for the Appellant's household could not be met and issued a notice that the Appellant's WV WORKS would be penalized with a second sanction resulting in case closure. On this date, the Appellant and Mr. [REDACTED] reported to the Respondent that they were both disabled. The Appellant testified during the hearing that they are disabled with "different forms of anxiety." The Appellant was instructed to provide verification in the form of a physician's statement to support her claims of inability to participate in a WV WORKS activity. Policy explicitly requires verification for the WV WORKS program prior to temporarily exempting an individual from meeting the work participation requirement, and the Appellant had the primary responsibility for obtaining this verification. The Appellant and Mr. [REDACTED] did not provide the requested medical verification at her good cause appointment and the WV WORKS sanction was implemented.

Without the required medical verification to support the Appellant's claim, her household was not exempt from the work participation requirement. There was no dispute of the fact the Appellant and Mr. [REDACTED] did not meet the required 150 activity hours agreed to on their most recent PRC. There was no dispute that the household had received a prior WV WORKS sanction. The Respondent was correct to apply 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 provide medical verification, the Respondent must not grant an exemption to the work participation requirement for the Appellant's WV WORKS case.
- 2) Because the Appellant's household was subject to the WV WORKS work participation requirement in October 2020 and failed to meet the work participation terms set on the October 9, 2020 PRC / SSP, the Respondent must implement a sanction resulting in termination of the Appellant's WV WORKS benefits.

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 December 2020.

Todd Thornton
State Hearing Officer