



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

**Bill J. Crouch
Cabinet Secretary**

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

**Jolynn Marra
Interim Inspector General**

October 12, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-2110

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
Certified State Hearing Officer
Member, State Board of Review

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

cc: Etta Thornburgh, [REDACTED] County DHHR

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

[REDACTED],

Appellant,

v.

Action Number: 21-BOR-2110

**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 6, 2021, on an appeal filed September 16, 2021.

The matter before the Hearing Officer arises from the August 26, 2021, decision by the Respondent to terminate the Appellant's WV WORKS cash assistance benefits.

At the hearing, the Respondent appeared by Etta Thornburg, Family Support Supervisor. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Notification Form
- D-2 Hearing Request received September 16, 2021
- D-3 Personal Responsibility Contract dated August 12, 2021
- D-4 Rights and Responsibilities Form dated August 12, 2021
- D-5 Case Comments dated August 25, 2021
- D-6 West Virginia Income Maintenance Manual §18.8.1.B
- D-7 Notice of Termination dated August 26, 2021
- D-8 Individual Comments dated August 26, 2021
- D-9 Case Comments dated August 31, 2021
- D-10 Case Comments dated September 7, 2021
- D-11 Statement from Appellant dated September 7, 2021

- D-12 Individual Comments dated September 10, 2021
- D-13 West Virginia Income Maintenance Manual §18.22
- D-14 Department's Summary

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 applied for WV WORKS cash assistance benefits on August 12, 2021.
- 2) The Appellant signed a Personal Responsibility Contract on August 12, 2021, acknowledging that she was required to report changes within ten (10) days (Exhibit D-3).
- 3) The Appellant was assigned to attend Strategic Planning in Occupational Knowledge for Employment and Success (SPOKES) classes beginning August 16, 2021.
- 4) As of August 25, 2021, the Appellant had failed to attend any SPOKES classes (Exhibit D-5).
- 5) The Respondent imposed a sanction against the Appellant on August 25, 2021 for failing to participate in an assigned work activity. A good cause appointment was scheduled for September 7, 2021 (Exhibit D-7).
- 6) The Appellant's caseworker conducted a home visit on August 26, 2021. The Appellant reported that she had a job interview on August 31, 2021 (Exhibit D-8).
- 7) The Appellant called her caseworker on August 31, 2021 and reported that she started working at [REDACTED] (Exhibit D-9).
- 8) The Appellant's caseworker confirmed with a manager of [REDACTED] that the Appellant was hired on August 20, 2021 (Exhibit D-9).
- 9) The Appellant attended the good cause meeting on September 7, 2021. She reported that she was hired on August 20, 2021. The Appellant was unable to provide employer verification of her projected earnings and signed a statement attesting to 22 hours per week at \$10 an hour (Exhibits D-10 and D-11).
- 10) The Appellant's caseworker granted good cause for failing to participate in a work activity and removed the WV WORKS sanction (Exhibit D-12).

- 11) The Appellant's WV WORKS benefits remained closed due to excessive income.
- 12) The Respondent did not approve transitional benefits for the Appellant for her failure to report the onset of employment within ten days.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §4.5.2.A states the client must report new employment within 10 days of the date an assistance group (AG) member or disqualified person begins the employment unless there is good cause for not reporting. The earned income disregards and deductions are not applied to any month's income for which earnings were not reported. These same disregards and deductions are not applied to any earnings received during the time the employment is unreported. In addition, when new employment is not reported, as required by the Personal Responsibility Contract (PRC), the appropriate sanction is applied.

West Virginia Income Maintenance Manual §4.5.3.A states the AG is ineligible in any month that the countable monthly gross income exceeds 100% of the Standard of Need (SON). The test is applied as follows:

- Step 1: Add together the total countable gross earned income, the gross profit from self-employment, and the countable gross unearned income of the AG and any disqualified person(s).
- Step 2: Determine the 100% of the SON amount in Appendix A for the appropriate AG size, excluding any disqualified person(s).
- Step 3: If the amount in Step 1 is greater than the amount in Step 2, the AG is ineligible.
- Step 4: If the amount in Step 1 is equal to or less than the amount in Step 2, the AG is eligible for further determinations.

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists 100% SON for a two-person AG as \$786.

West Virginia Income Maintenance Manual §18.22 states Work-Eligible Individuals may choose between two transitional benefit options any time the WV WORKS case is closed due to employment and the participant has reported employment within ten days of the employment begin date. The options are described below:

- Option 1 – This option is a continuation of support services and payments any time a WV WORKS benefit is closed due to employment which meets the requirements outlined below. Services include case management; support service payments; continuation of and payment for activities such as, but not limited to, job search, job readiness, and skills training. Employed former WV WORKS participants must apply to receive continued support service payments, see Section 18.22.

- Option 2 – This option is the West Virginia Employment Assistance Program (EAP). This program enables the employed former WV WORKS participant to continue to receive the Temporary Assistance for Needy Families (TANF) payment he received prior to becoming employed by use of a 100% earned income disregard for the EAP period. The family must elect to receive the EAP payment instead of continued support service payments. Participation hours for this employment may be projected for up to six months by using either pay stubs or a written statement from the employer. If it is apparent that the hours may vary substantially, the EAP participant must provide a time sheet or pay stubs each month to verify the hours. A PRC or SSP is not required for the transitional benefit period.

DISCUSSION

Policy requires that WV WORKS recipients report the onset of new employment within 10 days. Failure to report new employment within 10 days results in the loss of the earned income deduction and ineligibility for transitional benefits.

On August 31, 2021, the Appellant reported that she was hired on August 20, 2021, eleven (11) days after she was hired. The Appellant's anticipated earnings based upon her statement were \$220 weekly, converted to a monthly amount of \$946. Policy stipulates that the WV WORKS assistance group's total gross income cannot exceed 100% of the Standard of Need for the size of the assistance group. Policy lists 100% Standard of Need for a 2-person assistance group as \$786. The Respondent terminated the Appellant's WV WORKS cash assistance due to excessive income.

The Respondent did not approve transitional benefits for the Appellant because she failed to report the onset of employment timely. Likewise, the Appellant was not eligible to receive the earned income deduction to determine ongoing eligibility for WV WORKS cash assistance. The Appellant testified that her caseworker knew about the possibility of employment when she applied for WV WORKS and contended that she reported the new employment on August 27, 2021. The Appellant did not dispute that she was hired on August 20, 2021.

The Appellant had already started working when her caseworker conducted a home visit on August 26, 2021. The Appellant failed to report her employment at that time, and instead claimed to have a job interview on August 31, 2021. The Appellant's testimony that she reported the onset of employment on August 27, 2021, is unconvincing. The Appellant falsely reported having a job interview during the home visit, when in fact she had already been working for six days.

Whereas the Appellant failed to report the onset of employment within 10 days, she is not entitled to the earned income deduction to determine ongoing eligibility for cash assistance or transitional benefits. The Respondent's decision to terminate the Appellant's WV WORKS benefits is affirmed.

CONCLUSIONS OF LAW

- 1) Policy stipulates that WV WORKS recipients must report the onset of new employment within 10 days. Failure to report new employment within 10 days results in the loss of the

earned income deduction and ineligibility for transitional benefits.

- 2) The Appellant started working on August 20, 2021 but did not report the onset of employment until August 31, 2021.
- 3) The Appellant is ineligible to receive the earned income deduction to determine ongoing eligibility for WV WORKS cash assistance and is ineligible to receive WV WORKS transitional 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 12th day of October 2021.

Kristi Logan
Certified State Hearing Officer