



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

**Jeffrey H. Coben, M.D.  
Interim Cabinet Secretary**

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

**Sheila Lee  
Interim Inspector General**

January 31, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 23-BOR-1001

Dear [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: Recourse to Hearing Decision  
Form IG-BR-29

cc: Eric Acord/Michelle Jones, [REDACTED] DHHR

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

████████████████████,

**Appellant,**

**v.**

**Action Number: 23-BOR-1001**

**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 24, 2023, on an appeal filed December 16, 2022.

The matter before the Hearing Officer arises from the December 12, 2022, decision by the Respondent to terminate the Appellant's WV WORKS benefits.

At the hearing, the Respondent appeared by Michelle Jones, Family Support Specialist. Appearing as witnesses for the Respondent were Eric Acord, Family Support Supervisor and Damian Howard, Child Protective Services. The Appellant was self-represented. Appearing as witnesses for the Appellant were ██████████, Child Protective Services. The witnesses were sworn in, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Case Comments from November 2022 – January 2023
- D-3 Emails from ██████████ dated January 17, 2023, and ██████████ dated January 20, 2023
- D-4 Notice of Termination dated December 12, 2022
- D-5 West Virginia Income Maintenance Manual §§1.5.19, 3.4, 1.5.5 and 1.5.6

### **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 receiving WV WORKS cash assistance benefits for herself and her five children.
- 2) The Appellant reported that she resided at [REDACTED]
- 3) The Respondent discovered that [REDACTED], father of [REDACTED] and [REDACTED] listed the same address of [REDACTED] in a separate benefit case.
- 4) The Appellant's caseworker contacted Child Protective Services, who indicated that [REDACTED] was living in the home with the Appellant and the children.
- 5) The Respondent contacted [REDACTED] on December 9, 2022, who reported that he owned the residence on [REDACTED] and resided there.
- 6) The Respondent determined that [REDACTED] was residing with the Appellant and added him to her case.
- 7) The Respondent issued a notice on December 12, 2022, advising the Appellant that her WV WORKS benefits would be terminated effective December 30, 2022, as [REDACTED] had not completed all components of the WV WORKS application (Exhibit D-5).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §1.5 explains the WV WORKS application process:

#### **1.5.5 Who Must Be Interviewed?**

If the child is living with both parents or a parent and a stepparent, both must be interviewed.

#### **1.5.6 Who Must Sign?**

If the child(ren) lives with both parents or a parent and a stepparent, both must sign, even if separate interviews are conducted.

### **1.5.13 Beginning Date of Eligibility**

The beginning date of eligibility for WV WORKS benefits is retroactive to the date of application once the following requirements are met: completed orientation, a completed Personal Responsibility Contract (PRC), a completed Self-Sufficiency Plan (SSP), and necessary verifications.

### **1.5.19 Orientation**

Each adult and emancipated minor in the WV WORKS AG and non-recipient Work-Eligible Individual must receive orientation to the program. Attending a WV WORKS orientation and signing the DFA-WVW-4 are eligibility requirements, so eligibility may not be established until these are completed

### **1.5.21 Personal Responsibility Contract**

Completion and signature of the PRC form is required prior to approving the WV WORKS assistance group (AG). A separate PRC is completed and signed by each adult and emancipated minor in a WV WORKS AG, and any non-recipient Work-Eligible Individuals in the household.

### **1.5.22 Self-Sufficiency Plan**

A separate SSP is completed for each adult and emancipated minor in a WV WORKS AG, and any non-recipient Work-Eligible Individuals in the household. Completion and signature of the SSP is required to be completed within 10 days of the initial contact when the client expresses an interest in applying for WV WORKS.

West Virginia Income Maintenance Manual §3.4 explains WV WORKS eligibility determination groups:

### **3.4.1.A Who Must Be Included?**

The following individuals must be included in the AG:

- All minor, dependent, blood-related, and adoptive siblings who live in the same household with a specified relative.
- The parent(s) of the child(ren) identified above when the parent(s) lives with the child(ren).

## **DISCUSSION**

Pursuant to policy, the WV WORKS assistance group must include all minor, blood-related and/or adoptive siblings and their parents when living in the same household. The WV WORKS application is not considered completed until both parents, if living in the same household, complete WV WORKS orientation and sign the Self-Sufficiency Plan and Personal Responsibility Contract.

The Respondent contended that [REDACTED], father of two of the Appellant's children, was residing in the home and added him to the Appellant's case. The Respondent terminated the Appellant's WV WORKS benefits as [REDACTED] had not completed orientation or signed the Self-Sufficiency Plan and Personal Responsibility Contract.

The Appellant denied that [REDACTED] resided in her household. The Appellant testified that [REDACTED] owned the residence but lived in a house a few blocks from her house.

[REDACTED] testified that he owns several properties and does not reside at [REDACTED]. [REDACTED] stated he last resided at [REDACTED] in February 2022 and still uses that address to receive mail. [REDACTED] denied reporting to the Respondent that he resided in the household.

[REDACTED], Child Protective Services Worker, testified that she was involved in an investigation with the Appellant in October 2022. Due to the implementation of a temporary safety plan, the Appellant was not allowed to remain in the home with the children until the investigation was completed. [REDACTED] recalled that [REDACTED] was summoned to the home to care for the children for a few days while the Appellant was out of the home. [REDACTED] stated the residence had security cameras and while [REDACTED] was never home when she would arrive for a home visit, he would come to the home after being alerted by the security footage that someone was at the residence.

[REDACTED], Child Protective Services Worker, was also involved in the October 2022 investigation. [REDACTED] could not give specific testimony regarding [REDACTED] residency.

Based upon the testimony and evidence provided, the Respondent failed to establish that [REDACTED] was residing in the Appellant's home. The Respondent based its decision to add [REDACTED] to the case based upon his use of the Appellant's address to receive mail, statements from Child Protective Services and [REDACTED] admission that he was residing in the home. Testimony from two Child Protective Services workers who were involved with the family months prior to the closure of the Appellant's case could not confirm that he was a member of the household. [REDACTED] denied reporting to the Respondent that he lived in the home.

Whereas the evidence failed to confirm that [REDACTED] was residing in the Appellant's home, the Respondent's decision to add him to the Appellant's case and subsequent case closure cannot be affirmed.

### **CONCLUSIONS OF LAW**

- 1) Pursuant to policy, the WV WORKS assistance group must include all minor, blood-related and/or adoptive siblings and their parents when living in the same household.
- 2) The Respondent determined that the father of two of the Appellant's children was residing in the home and added him to the WV WORKS assistance group.
- 3) The evidence and testimony provided failed to establish that [REDACTED] was residing in the Appellant's home.
- 4) The Respondent incorrectly added [REDACTED] to the WV WORKS assistance group thereby causing case closure.

## **DECISION**

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

**ENTERED this 31<sup>st</sup> day of January 2023.**

---

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