



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of the Inspector General  
Board of Review**

**Jeffrey H. Coben, MD  
Interim Cabinet Secretary**

**Sheila Lee  
Interim Inspector General**

June 13, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-1477

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,

**Tara B. Thompson, MLS**  
State Hearing Officer  
Member, State Board of Review

Encl: Decision Recourse  
Form IG-BR-29

CC: Joy Hicks, [REDACTED] DHHR

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

██████████,

**Appellant,**

v.

**Action Number: 23-BOR-1477**

**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 May 3, 2023.

The matter before the Hearing Officer arises from the Respondent's decision to terminate the Appellant's eligibility for WV WORKS benefits.

At the hearing, the Respondent appeared by Joy Hicks, Family Support Specialist, ██████████ DHHR. Appearing as a witness on behalf of the Respondent was Lindsay Green, Family Support Specialist, ██████████ DHHR. The Appellant was self-represented. All witnesses were sworn in and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice, dated March 1, 2023
- D-2 Employment Statement, signed March 30, 2023  
DHHR Disability/Incapacity Medical Assessment
- D-3 DHHR Referral for Training/Services, dated January 17, 2023  
WV WORKS, Personal Responsibility Contract (PRC) Self-Sufficiency Plans
- D-4 DHHR Employer Contact Form
- D-5 Case Comments, dated October 7, 2021, through April 7, 2023
- D-6 Case Comments, dated August 12, 2022, through April 7, 2023
- D-7 Notice, dated February 24, 2023  
Notice, dated February 15, 2023  
Notice, dated January 10, 2023

- Notice, dated January 9, 2023
- D-8 Notice, dated February 2, 2023  
Notice, dated February 16, 2023  
Notice, dated March 1, 2023
- D-9 Email Correspondence, dated January 23 through April 4, 2023

**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 following Findings of Fact are set forth.

**FINDINGS OF FACT**

- 1) The Appellant was a recipient of WV WORKS benefits (Exhibit D-1).
- 2) The Appellant's Assistance Group (AG) consisted of herself and her minor child (Exhibit D-1, D-5, and D-6).
- 3) On March 1, 2023, the Respondent issued a notice advising the Appellant that her WV WORKS benefits would stop, after March 31, 2023, because she did not turn in all requested information (Exhibit D-1).
- 4) The March 1, 2023 notice referenced West Virginia Income Maintenance Manual Sections(s): 7.2; 15.8.1; 1.3.1; and 7.2.3.
- 5) The March 1, 2023 notice advised that the Appellant did not verify the start date of employment (Exhibit D-1).
- 6) The March 1, 2023 notice advised that the Appellant did not verify "EMPLOYMENT INCOME Proof of gross earned income, such as paystubs/employer statement" (Exhibit D-1).
- 7) On October 31, 2022, December 13, 2022, and January 17, 2023, a Personal Responsibility Contract (PRC) Self-Sufficiency Plan was completed with the Appellant (Exhibit D-3).
- 8) On October 31, 2022, December 13, 2022, and January 17, 2023, the Appellant was advised of her responsibility to report case changes immediately (Exhibit D-3).
- 9) The Appellant agreed to cooperate with all listed assignments and activities listed on the October 31, 2022, December 13, 2022, and January 17, 2023 Self-Sufficiency Plans (Exhibit D-3).
- 10) The December 13, 2022, October 31, 2022, and January 13, 2023 Self-Sufficiency plans were signed by the Appellant (Exhibit D-3).

- 11) On January 10, 2023, the Appellant reported that she “might also have a job opportunity doing in home health care” (Exhibit D-5).
- 12) The January 10, 2023 Case Comment indicated the Appellant reported that “she speaks with the woman in charge of hiring” on January 16, 2023 (Exhibit D-5).
- 13) On January 10, 2023, the Respondent mailed the Appellant an employer statement and a new appointment letter “incase [sic] she does obtain employment” (Exhibit D-5).
- 14) On January 17, 2023, the Appellant reported that “she thought she had a job with [REDACTED]” but had not spoken with “the lady” (Exhibit D-5).
- 15) As of January 17, 2023, the Appellant had not started work with [REDACTED] (Exhibits D-5 and D-6).
- 16) Beginning January 17, 2023, the Self-Sufficiency Plan required the Appellant to report when she obtains work (Exhibit D-3)
- 17) On January 17, 2023, the Respondent referred the Appellant to SPOKES training (Exhibit D-3).
- 18) On January 17, 2023, the Respondent notified the Appellant that she was required to attend 128 hours per month of SPOKES training, beginning on January 23, 2023 (Exhibits D-3 and D-5).
- 19) The January 17, 2023 SPOKES referral was signed by the Appellant (Exhibit D-3).
- 20) The Appellant did not begin SPOKES on January 23, 2023 (Exhibits D-5 and D-9).
- 21) On January 23, 2023, the Appellant informed the Respondent, by email, that she received paperwork from [REDACTED] “to begin training for the job of direct care worker” (Exhibit D-9).
- 22) The Appellant’s January 23, 2023 email indicated her training would begin that day (Exhibit D-9).
- 23) The Appellant had not completed training before the issuance of the Respondent’s March 1, 2023 letter (Exhibit D-9).
- 24) On January 23, 2023, the Appellant emailed the Respondent and advised she did not believe she could submit the employment statement until after she completed phone training and a background check (Exhibit D-9).
- 25) On January 23, 2023, the Respondent emailed the Appellant that the employer statement was required to exempt the Appellant from SPOKES and offered to fax or email the employer statement to the supervisor (Exhibit D-9).

- 26) On January 25, 2023, the Respondent emailed the Appellant, “We might be able to use a written statement from the employer that they guarantee you employment or an email that states you have been hired” (Exhibit D-9).
- 27) On January 27, 2023, the Appellant emailed the Respondent and advised that the completion of her training had been delayed (Exhibit D-9).
- 28) On January 27, 2023, the Respondent offered to fax the employer statement to the Appellant’s supervisor to complete if she provided the Respondent with the fax number (Exhibit D-9).
- 29) On February 2, 2023, the Appellant reported she had spoken to someone who agreed to hire the Appellant after she completed a background check and that she would let the Respondent know if she was offered a job (Exhibit D-6).
- 30) On February 2, 2023, the Appellant reported that she was still waiting to start work (Exhibit D-6).
- 31) On February 2 and February 16, 2023, the Respondent issued a Verification Checklist that stated, “You need to provide documentation listed on the following pages for us to determine your eligibility” (Exhibit D-8).
- 32) Pages 1, 3, and 5 of the February 2 and February 16, 2023 notices were submitted as evidence and did not include a list of requested documentation or the information submission due dates (Exhibit D-8).
- 33) On February 14, 2023, the Respondent emailed the Appellant to follow up on the request for an employer statement (Exhibit D-9).
- 34) On February 14, 2023, the Appellant replied by email that she “faxed it to them a couple of weeks ago, may need to do it again. I called a couple hours ago to see what the status was, if they had completed the background check, had a round about start date, etc. but was unable to actually speak with the lady that I’ve been told I need to talk to” (Exhibit D-9).
- 35) On February 14, 2023, the Respondent replied by email and advised the Appellant would “need to come in, update your PRC and be placed in SPOKES” (Exhibit D-9).
- 36) On February 15, 2023, the Respondent added earned income to the Appellant’s case and pended the Appellant’s eligibility for an employer statement (Exhibit D-6).
- 37) On February 24, 2023, the Appellant emailed the Respondent and requested an employer statement be sent to her potential employer (Exhibit D-9).
- 38) On March 30, 2023, the Appellant submitted an employer statement reflecting a hire date of March 30, 2023 (Exhibit D-2).

## **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual (WVIMM) § 18.4.1 *Introduction* provides in relevant parts:**

Adult recipients of WV WORKS benefits must meet minimum work participation requirements.

**WVIMM § 18.1.2 *Definitions* provides in relevant parts:**

Work-Eligible Individual: A Work-Eligible individual is a parent, a caretaker included in the WV WORKS AG, or a minor child head-of-household receiving WV WORKS assistance unless the individual is:

- A minor parent and not the head-of-household or spouse of the head-of-household; or
- A noncitizen who is ineligible... or
- A recipient of Supplemental Security Income (SSI) benefits.

Self-Sufficiency Plan (SSP): The SSP (Form DFA-SSP-1) is a negotiated contract between each of the adult members of the WV WORKS AG and the Case Manager, as the representative of the DHHR .... The SSP lists the goals, as well as the tasks necessary to accomplish the goals, including specific appointments, assignments, and activities for the adult.

**WVIMM § 1.2.4 *Client Responsibility* provides in relevant parts:**

The client's responsibility is to provide complete and accurate information about her circumstances so that the Worker can correctly determine her eligibility.

**WVIMM § 10.2.1 *General Sources of Information* provides in relevant parts:**

The need for case maintenance originates from many sources, including the client.

**WVIMM § 7.2.1 *When Verification is Required* provides in relevant parts:**

Verification of a client's statement is required when:

- Policy requires routine verification of specific information.
- The information provided is questionable. To be questionable, it must be:
  - Inconsistent with other information provided; or
  - Inconsistent with information in the case file; or
  - Inconsistent with information received by DHHR from other sources; or
  - Incomplete; or
  - Obviously inaccurate; or
  - Outdated.

- Past experience with the client reveals a pattern of providing incorrect information or withholding information. A case recording must substantiate the reason the Worker questions the client's statement.
- The client does not know the required information.

**WVIMM § 9.3.5 DFA-6, *Notice of Information Needed* provides in relevant parts:**

When a client's circumstances change and additional information or verification is needed, the Worker must issue the DFA-6 to notify the client in writing of the needed information and the date by which the information must be received.

**WVIMM § 9.3.5.A *Case Maintenance for All Programs* provides in relevant parts:**

The date entered in the DFA-6 must be at least 10 days from the date the DFA-6 is completed. If the client fails, without good cause, to provide the information by the established date, a DFA-NL-C must be sent to notify the client of the failure and the resulting case action.

**WVIMM § 7.2.4 *Worker Responsibilities* provides in relevant parts:**

At application, redetermination, and anytime a DFA-6 is used, the Worker is required to list all requested verification known at that time. Additional verification should only be requested if the information provided is incomplete or if additional information is necessary to determine eligibility. If the client is unsuccessful in obtaining the information, the Worker is required to document attempts to obtain the verifications.

**WVIMM § 7.3.52 *Verification Requirements* provides in relevant parts:**

The following identifies items to be verified, when information must be verified, and possible sources of verification:

For WV WORKS, participation hours in employment and training activities are verified monthly:

Timesheets; verbal confirmation over the phone from training or volunteer site may be accepted but must be followed up with receipt of a signed timesheet. For employment, phone confirmation by employer followed with written, signed employer statement, or pay stubs, electronic records, such as e-mails.

**WVIMM § 7.2.3 *Client Responsibilities* provides in relevant parts:**

The primary responsibility for providing verification rests with the client .... The client is expected to provide information to which she has access and to sign authorizations needed to obtain other information. Failure of the client to provide necessary information or to sign authorizations for the release of information results in closure of the active case provided the client has access to such information and is physically and mentally able to provide it.

Refusal to cooperate, failure to provide necessary information, or failure to sign authorizations for the release of information, provided the client has access to such information and is physically and mentally able to provide it, may result in the closure of the assistance group (AG).

No case may be determined ineligible when a person outside the AG fails to cooperate with verification.

## **DISCUSSION**

As a WV WORKS benefit recipient, the Appellant was required to attend SPOKES and report when she began employment. On March 1, 2023, the Respondent determined that the Appellant's WV WORKS benefits would end because she failed to submit the requested employment verification. The Appellant protested the Respondent's decision.

Submitted evidence regarding the Appellant's failure to supply information regarding her disability status is not relevant to the issue of the notice. The notice indicated that the Appellant's WV WORKS benefits would be terminated because she failed to submit verification of her employment start date and income. Therefore, evidence regarding other bases of termination was given little weight in the decision of this Hearing Officer. If the Respondent wishes to pursue these reasons for benefit termination, proper advanced notice must be issued to the Appellant reflecting the basis of the termination and relevant policy citations.

During the hearing, exhibits and testimony were submitted regarding the Appellant's submission of an employer statement after the Respondent's March 1, 2023 action. The Respondent's witness provided testimony regarding reasons the late submitted employer statement was unclear. The submitted employer statement was completed by an employer other than [REDACTED] and did not establish a start date for the Appellant's [REDACTED] employment. Because the employer statement was submitted after the Respondent's March 1, 2023 action, was not available for consideration at the time of the Respondent's action, reflected a different employer, and indicated a hire date after the Respondent's action, the submitted employer statement was given little weight in the decision of this Hearing Officer.

The March 1, 2023 notice advised the Appellant's WV WORKS case would close because she failed to verify the start date of employment and proof of gross earned income. The Respondent had to prove by a preponderance of the evidence that the Appellant failed, after proper advanced notice, to submit the requested proof of her employment start date and gross earned income by the required date. To prove that the Appellant received proper advanced notice, the preponderance of evidence had to demonstrate that the Respondent issued a Verification Checklist (DFA-6) to the Appellant that listed all known verification to be submitted and the date on which the information was due.

The Appellant was required to participate in the activities listed on her SSP agreement. The Appellant was responsible for providing complete and accurate information about her employment status so that the Respondent could correctly determine her WV WORKS eligibility. The onset of employment and income has the potential to affect the Appellant's WV WORKS eligibility.



During the hearing, the Appellant argued that she couldn't complete an employer statement because she was going through training and had not yet begun employment with [REDACTED]. The Appellant's testimony is unclear because her January 23, 2023 email reflected a report of the onset of employment training for a specific position. No reliable evidence was submitted to explain why the start date of the Appellant's employment training did not constitute the start date of employment.

The Appellant's January 23, 2023, reported change in employment status initiated the Respondent's case maintenance process to verify the Appellant's employment dates and income. Instead of issuing a Verification Checklist, as required by the policy, the Respondent emailed the Appellant and requested she provide an employer statement. The evidence revealed that the Respondent did not issue a Verification Checklist to the Appellant until February 2, 2023.

The policy requires the Respondent to request additional information and verification by issuing a DFA-6 Verification Checklist to notify the Appellant in writing of the needed information and the date by which the information must be received. Pursuant to the policy, the verification due date must be at least 10 days from the date of the DFA-6 and the notice must list all known verification needed.

The February 2 and February 16, 2023, submitted Verification Checklist pages did not include the entirety of the checklists. The submitted pages failed to provide a list of requested information or a due date. Although the evidence revealed that the Respondent's worker made efforts to assist the Appellant with obtaining the needed information, the evidence must also establish that the Respondent provided the Appellant with sufficient written notice to provide the information by a specific date. Without the corroborating missing pages to confirm that the Appellant was properly noticed of the requested information and provided with sufficient time to submit the information, the Hearing Officer cannot affirm that the Appellant failed to provide the requested employment start date and proof of gross earned income information to the Respondent by the required date.

### **CONCLUSIONS OF LAW**

- 1) Failure of the client to provide the necessary information, after proper notice, may result in the closure of the Assistance Group (AG).
- 2) The preponderance of evidence failed to establish that the Respondent issued a Verification Checklist (DFA-6) to the Appellant that listed all known required employment start date and earned income information to be submitted or the date on which the information was due.
- 3) Because the preponderance of evidence failed to establish that the Respondent provided the Appellant with proper notice to submit verification, the Respondent incorrectly acted to terminate her WV WORKS benefits, after March 31, 2023, because she failed to return the requested employment start date and income information.

## **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's WV WORKS benefits, after March 31, 2023.

Entered this 13<sup>th</sup> day of June 2023.

---

**Tara B. Thompson, MLS**  
State Hearing Officer