



**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**

**Christopher G. Nelson  
Interim Inspector General**

October 11, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-2244

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: Mary Dean Jones, [REDACTED] DHHR

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

██████████,

**Appellant,**

**v.**

**Action Number: 23-BOR-2244**

**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 August 23, 2023.

The matter before the Hearing Officer arises from the Respondent's June 16, 2023 decisions to apply a sanction to the Appellant's WV WORKS benefits and terminate her WV WORKS benefit eligibility for six months.

At the hearing, the Respondent was represented by Mary Dean Jones, ██████████ DHHR. The Appellant appeared and represented herself. All witnesses were sworn in and the following documents were admitted into evidence.

**Department's Exhibits:**

D-1 Case Comments

**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) On June 16, 2023, the Respondent issued a notice advising the Appellant that a second sanction was being applied and her WV WORKS benefit eligibility would be terminated for six months, effective July 1, 2023.
- 2) The reason for the Respondent's action was, "This individual failed to meet the terms of the Personal Responsibility Contract by FAILING TO RETURN TIMESHEET."
- 3) The Appellant was required to complete twenty hours per week or 85 hours per month of community service.
- 4) To comply with her Personal Responsibility Contract (PRC), the Appellant was required to submit a timesheet for May 2023 by June 5, 2023.
- 5) On June 6, 2023, the Respondent conducted a home visit and reminded the Appellant to submit her May 2023 time sheet.
- 6) The Appellant did not submit a May 2023 timesheet to the Respondent.

## **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual (WVIMM) § 1.5.12.B provides in relevant sections:**

When the Assistance Group (AG) has been sanctioned for failure to cooperate with WV WORKS, the benefit is subsequently closed. If a reapplication is made, the AG remains closed until the sanction period ends.

**WVIMM § 1.5.21 *Personal Responsibility Contract* provides in relevant sections:**

The PRC is a contract between the WV WORKS AG and the Worker, as the representative of the DHHR ... Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC results in an imposition of a sanction against the AG.

**WVIMM § 14.6 *WV WORKS Requirements* provides in relevant sections:**

The work component of WV WORKS is described in detail in Chapter 18. Failure or refusal to comply with the requirements of the work component may adversely affect the client's WV WORKS eligibility or the amount of his WV WORKS benefit. The following sections provide information about those who are temporarily exempt from the work requirement, how eligibility and benefit amounts are affected, sanctions, determining good cause, and the effect of a WV WORKS sanction on other programs.

**WVIMM § 14.7 WV WORKS EXEMPTIONS provides in relevant sections:**

The following are exemptions from meeting the work requirement: ...

- Undocumented aliens and aliens under the five-year ban...
- Parents, stepparents, or caretaker relatives receiving Supplemental Security Income (SSI)...
- Care for a disabled family member (TW) ...
- Minor parents who are not head of household; and
- Grandparents and other non-parent caretaker relatives ...

**WVIMM § 14.8 WV WORKS Sanctions provides in relevant sections:**

When a member of the AG 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 Definition of a Sanction provides in relevant sections:**

Sanctions are applied in the form of termination of WV WORKS benefits. The duration of the sanction period is determined as follows:

- Second Offense = Ineligibility for cash benefits for 6 months

**WVIMM § 18.4.5.A Methods of Documenting Participation Hours provides in relevant sections:**

All hours of participation in activities must be verified. The participant timesheet is the standard timesheet used to document participation ... Documentation is required and must be available from the activity site at least monthly to support what is reported for participation and may include electronic records. Monthly timesheets must be filed in the participant's case records.

## **DISCUSSION**

The Respondent applied a second sanction to the Appellant by terminating the Appellant's WV WORKS benefit eligibility for six months, effective July 1, 2023. The Appellant contested the application of her sanction and termination of her WV WORKS eligibility. The Appellant argued that she complied with her work hours but was unsuccessful in obtaining a May timesheet.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of the evidence — including the submitted exhibit and testimony — that the Appellant's WV WORKS benefits were correctly terminated because she failed to submit her May 2023 timesheet as required.

During the hearing, the Respondent's representative testified that the Appellant was assigned community service as her work activity. The Respondent's representative testified that the Appellant was required to complete twenty hours per week or 85 hours per month of community service. The Respondent's representative testified that the Appellant was required to submit her timesheet by the 5<sup>th</sup> day of each month. Although the Appellant's Personal Responsibility Contract was not provided as evidence, the Appellant did not contest the Respondent's representative's testimony regarding her community service hour and timesheet submission requirements.

The Respondent testified that she did not receive a May time sheet from the Appellant by the required date. The Respondent's representative testified that she tried to call the Appellant for three days to discuss the missing timesheet and was unable to leave a message. The Respondent's representative testified that she made a home visit with the Appellant on June 6, 2023 and that she reminded her the May timesheet was due. The Respondent testified that she did not receive the requested time sheet and applied a sanction to the Appellant's case after June 30, 2023.

The Appellant did not dispute that she did not submit a May 2023 timesheet. She testified that she completed the community service hours as required but had barriers to reaching the person from the community service location who oversaw providing her with the required timesheet record. The Appellant testified that she has barriers with transportation, mental health, and other life circumstances and requires WV WORKS benefits to meet her needs.

The Respondent argued that if the Appellant was completing her volunteer hours, she should be able to get the timesheet forms completed in person by an individual at the community service location. The Appellant argued that the individual responsible for the time sheet form completion has many responsibilities, is in her office at limited times, and was unavailable to complete the form.

The Respondent argued that she provided the Appellant with additional time — until June 30, 2023 — to submit the required timesheet by email, fax, or in person. The Appellant

testified that after the onset of the sanction, she did not attempt to obtain or submit the May timesheet.

### **CONCLUSIONS OF LAW**

- 1) Sanctions may be applied — in the form of WV WORKS benefit terminations — when a member of the AG does not comply with the Personal Responsibility Contract (PRC).
- 2) The preponderance of the evidence demonstrated that the Appellant failed to comply with her PRC requirement to submit a May 2023 timesheet to verify her community service hour participation.
- 3) The Respondent correctly applied a sanction terminating the Appellant's WV WORKS benefit eligibility.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to apply a sanction to the Appellant's WV WORKS benefit eligibility by terminating the Appellant's WV WORKS benefits.

Entered this 11<sup>th</sup> day of October 2023.

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