



October 2, 2025

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 25-BOR-2792

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 Human Services. These same laws and regulations are used in all cases to ensure 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,

Eric L. Phillips
Certified State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Tracy Sloane, BFA

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

[REDACTED],

Appellant,

v.

Action Number: 25-BOR-2792

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on September 24, 2025, on an appeal filed with the Board of Review on September 4, 2025.

The matter before the Hearing Officer arises from the August 18, 2025 decision by the Respondent to sanction and terminate West Virginia Works (WVW) cash assistance benefits.

At the hearing, the Respondent appeared by Tracy Slone, Economic Service Worker Senior. The Appellant was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Personal Responsibility Contract and Initial Self-Sufficiency Plan dated April 21, 2025
- D-2 Notice of Appointment dated May 2, 2025
- D-3 Case Comments
- D-4 Notice of Appointment dated July 24, 2025
- D-5 Legal Aid Referral Form dated May 22, 2025
- D-6 Electronic Mail Transmission
- D-7 Self-Sufficiency Plan dated May 22, 2025
- D-8 Physician's Statement dated April 16, 2025
- D-9 Notice of Appointment dated July 24, 2025
- D-10 Notice of Appointment dated August 6, 2025
- D-11 Case Comments

- D-12 Notice of Pending Closure of Benefits dated August 14, 2025
- D-13 Notice of Decision dated August 18, 2025
- D-14 Case Comments
- D-15 Operative Report dated August 14, 2025
- D-16 Case Staffing Information Form dated August 28, 2025
- D-17 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 Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) On April 21, 2025, the Appellant applied for WVW cash assistance program benefits.
- 2) The Appellant was previously employed as a Registered Nurse.
- 3) The Appellant is temporarily unemployed due to medical issues.
- 4) On April 17, 2025, the Appellant provided a physician's statement indicating that she was able to return to work without restrictions on May 26, 2025.
- 4) On April 21, 2025, the Appellant completed a Personal Responsibility Contract (PRC) and an initial Self-Sufficiency Plan (SSP) outlining a short-term goal to apply for disability income and driver's license issues as a barrier to employment. (Exhibit D-1)
- 5) On May 2, 2025, the Respondent issued a Notice of Appointment for the Appellant to complete assessment testing on May 20, 2025. (Exhibit D-2)
- 6) The Appellant failed to complete assessment testing. (Exhibit D-3)
- 7) On July 24, 2025, the Respondent rescheduled the assessment testing for August 19, 2025. (Exhibit D-4)
- 8) On May 22, 2025, the Respondent referred the Appellant to Legal Aid of West Virginia for assistance in obtaining disability income. (Exhibit D-5)
- 9) The Appellant was scheduled to meet with Legal Aid of West Virginia on July 21, 2025, and failed to appear. (Exhibit D-6)
- 10) On August 6, 2025, the Appellant met with Legal Aid of West Virginia. (Exhibit D-6)

- 11) On May 22, 2025, the Appellant completed an additional SSP with the Respondent and was required to complete a physician's disability assessment by June 30, 2025. (Exhibit D-7)
- 12) The Appellant failed to return a physician's statement by the established deadline.
- 13) On July 24, 2025, the Respondent scheduled an additional appointment with the Appellant for August 5, 2025, for placement in a work activity. (Exhibit D-9)
- 14) The Appellant failed to attend the in-office appointment.
- 15) On August 6, 2025, the Respondent rescheduled the work activity appointment with the Appellant for August 13, 2025. (Exhibit D-10)
- 16) The Appellant failed to attend the rescheduled in-office appointment. (Exhibit D-11)
- 17) On August 14, 2025, the Respondent initiated a first sanction and termination of the Appellant's WVW cash assistance. (Exhibit D-11)
- 18) On August 14, 2025, the Respondent issued a Notice of Pending Closure of Benefits and scheduled a good cause appointment with the Appellant for August 22, 2025. (Exhibit D-12)
- 19) On August 18, 2025, the Respondent issued a Notice of Decision informing the Appellant of the termination of her WVW cash assistance benefits effective August 31, 2025, due to the implementation of a first sanction for failure to comply with the requirements outlined in the SSP. (Exhibit D-13)
- 20) The Appellant failed to attend the good cause appointment.
- 21) On August 29, 2025, the Appellant informed the Respondent of a completed shoulder surgery and that she was recovering at her sister's residence in another county. (Exhibit D-14)
- 22) On August 29, 2025, the Appellant completed a good cause appointment with the Respondent and provided an Operative Report (Exhibit D-15) which documented her surgery date of August 14, 2025.
- 23) On August 29, 2025, the Respondent completed a case staffing with the Appellant. (Exhibit D-16)
- 24) Based on information related during the case staffing and good cause appointment, the Respondent did not lift the sanction and termination of WVW cash assistance benefits. (Exhibit D-17)

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 18.1.1 documents:

WV WORKS is West Virginia's Temporary Assistance for Needy Families (TANF) program. TANF is a cash assistance program funded under a block grant authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and is designed to help needy families achieve self-sufficiency. This cash assistance program replaced Aid to Families with Dependent Children (AFDC), which included cash assistance to families of unemployed parents (AFDC/U), on January 1, 1997. AFDC/U recipients were automatically eligible for Medicaid. All counties were phased into the WV WORKS Program by January 1998.

Through TANF, WV WORKS provides cash assistance along with a variety of employment and education related services to low-income families with dependent children.

The emphasis of the PRWORA is on personal responsibility and employment. The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited program that emphasizes employment and personal responsibility. Intensive interaction between the participant and the Case Manager is necessary to establish and maintain the Personal Responsibility Contract (PRC) between the Department of Health and Human Resources (DHHR) and the WV WORKS participant. PRWORA prohibited any link between the block grant cash assistance program and automatic Medicaid eligibility. Therefore, only those WV WORKS participants who meet eligibility requirements for Medicaid are eligible.

The Deficit Reduction Act of 2005 (DRA) further defined what participation activities count towards meeting the federally mandated TANF work requirements. The DRA defined specific acceptable core activities and the non-core activities that may be used to meet participation requirements over the core hours.

WV WORKS expects parents and other caretaker relatives to support their own dependent children and those in their care. Every parent and other caretaker who is included in a payment and any non-recipient Work-Eligible Individual in the household has a responsibility to participate in an activity to help prepare for, obtain and maintain gainful employment.

The goals of WV WORKS are to:

- Achieve more efficient and effective use of public assistance funds;
- Reduce dependency on public programs by promoting self-sufficiency; and
- Structure assistance to emphasize employment and personal responsibility.

This chapter discusses the requirement that all adults in the assistance group (AG) and all nonrecipient Work-Eligible Individuals must meet a work requirement and describes minimum participation rates to which the State must adhere. Based on the participant's participation in one or more of the activities described in Sections 18.10 - 18.18, the State's participation rate is determined. However, the goals of WV WORKS do not include meeting a participation requirement. Instead, the foundation of WV WORKS is self-sufficiency. There are, therefore, some activities which allow the participant to meet his work requirement, but which do not lead to self-sufficiency. The Case Manager may allow the participant to continue in the activity which meets the participation requirement while developing plans with the participant to begin another activity which will accomplish or lead to self-sufficiency.

The eligibility system provides automated support for WV WORKS work requirements by tracking the participant's involvement in employment and other activities and by providing for the storage and retrieval of information necessary for the assessment process.

West Virginia Income Maintenance Manual Chapter 18.4.2.A documents in pertinent part:

Families that do not meet the definition of a two-parent family are considered "All Family" Households regardless of the number of parents or other adults included in the household.

All Family Households include, but are not limited to, the following situations:

- Families with only one parent living in the home, whether he is included in the AG or is a non-recipient Work-Eligible Individual.
- Families with two parents with a common child living together and one is excluded from the WV WORKS payment due to one of the following reasons: o Minor parent who is not the head-of-household; o Ineligible noncitizen due to immigration status; or o SSI recipient.
- Families with one parent and one stepparent included in the benefit when they have no common child.
- Families with one or two non-parent caretaker relatives included in the WV WORKS payment.

West Virginia Income Maintenance Manual Chapter 14.8 documents:

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.

West Virginia Income Maintenance Manual Chapter 14.8.1 documents:

Sanctions are applied in the form of termination of WV WORKS benefits.

The duration of the sanction period is determined as follows:

- First Offense = Ineligibility for cash benefits for 1 month;
- Second Offense = Ineligibility for cash benefits for 6 months;
- Third and All Subsequent Offenses = Ineligibility for cash benefits for 12 months.

WV WORKS sanctions are applied to all Work-Eligible members of a WV WORKS case, not only to the member who causes the sanction.

A sanction is not imposed by having the client repay all or part of the benefit he has already received. A termination of cash assistance for at least one month is the only means by which a sanction is imposed.

Once the beginning of the sanction period has started, it cannot be stopped until the appropriate time has elapsed.

When two or more offenses, by the same or different participants, occur in the same month, it is treated as if only one offense has occurred. All offenses must be addressed in the client notification and only one sanction is imposed. If an additional offense, by the same or different participants, occurs in the same month after the Case Manager has mailed the notification of the preceding offense, an additional sanction may not be imposed.

The second and subsequent WV WORKS sanctions require supervisory approval. A Supervisor must confirm the sanction in the eligibility system. When a Supervisor is not available, a back-up Supervisor may confirm the sanction.

If good cause is granted for the first or second sanction the Supervisor must give approval for removing the sanction and must make comments in the eligibility system.

The third and subsequent WV WORKS sanctions must be approved by the Division of Family Assistance (DFA) Temporary Assistance for Needy Families (TANF) Policy Unit. The Supervisor must send an email to TANF Policy Unit members and his Regional Program Manager once the prospective sanction is placed in the eligibility system with the date and time of the scheduled case staffing, along with a detailed summary on a DFA-WVW-75 outlining the reason for the sanction including:

- Case name, case number, PIN numbers;
- Current PRC;
- Number of referrals provided to the AG for help in removing barriers;
- Number of home/work site visits in the past 12 months. If a home visit has not been completed within 60 days of the third or subsequent sanction request, the Case Manager must schedule, attempt and document a home visit before a sanction approval will be considered. A site visit must not be completed for this purpose.
- Any special or unusual circumstances in the family; and

- Worker, Supervisor and/or Community Services Manager (CSM) decision, including reason, about whether or not the family should be sanctioned. This process is to ensure all challenges identified have been addressed. If good cause is requested, the Supervisor must notify the Policy Unit and Program Manager by email, that they are requesting the sanction be lifted, and the Policy Unit must approve the good cause. To be considered for future benefits, the individual will be required to re-apply for WV WORKS.

West Virginia Income Maintenance Manual Chapter 14.8.3 documents:

All benefit terminations due to imposition of a sanction require advance notice. See Chapter 9 the sanction is effective. Once a period of ineligibility is imposed, i.e. after expiration of the 13-day advance notice period, the ineligibility remains in effect for the pre-determined number of months, regardless of case status.

West Virginia Income Maintenance Manual Chapter 14.8.4 documents:

A case staffing is required before all sanctions start.

After a sanction has been imposed, the Worker must send a pending closure notice (DFAWVW-5) or system notice, which includes an appointment for a case staffing. The case staffing notice may be sent any time after notification that the sanction has been imposed, but before start of the sanction. It is recommended that the case staffing occur as soon as possible after the notification to try to avoid the sanction.

When the sanction is scheduled to start prior to the case staffing, the sanction must be delayed until the case staffing has been attempted. The Worker must document in comments the dates the case staffing was scheduled and also document the outcome of a completed case staffing on a DFA-WVW-6 and in comments. At the Supervisor's discretion, a home visit may be made in addition to the case staffing. However, the home visit does not substitute for the case staffing.

During the case staffing, the Case Manager must discuss with the participant the reason(s) for the sanction. The Case Manager will explore with the participant why he has not complied with the PRC or SSP or otherwise participated and cooperated. During the visit, the Case Manager will explore any support services, other Department services or community resources that are available to the client to address any challenges to participation. Appropriate services and referrals will be arranged. The Case Manager must also discuss the following during the case staffing visit:

- Plans for how the children's needs will be met when the WV WORKS benefit stops.
- How rent and utilities will be paid while the WV WORKS case is ineligible.
- Determine how extra expenses, such as, but not limited to, cleaning and laundry supplies, clothing, etc. will be covered.

- Explain that if a participant is in their first sanction, Emergency Assistance is not available for one month. For the second and subsequent sanctions, Emergency Assistance is not available for the first three months of a sanction period.
- Explain that Supplemental Nutrition Assistance Program (SNAP) benefits will not increase due to the loss of WV WORKS.
- Explain that the participant must establish good cause to avoid a sanction

West Virginia Income Maintenance Manual Chapter 18.4.7 documents:

Disability and incapacity for a Work-Eligible Individual may be established with or without a physician's statement as described in the following sections.

18.47.7.A Establishing Disability without a physician's statement:

When the disability is obvious to the Case Manager, no verification is required. The Case Manager must record his findings and the reason for his decision in case comments.

If the disability is not obvious to the Case Manager, disability may be established according to other criteria below. If disability cannot be established according to this section, see Establishing Disability With A Physician's Statement below.

- The individual receives benefits from a governmental or private source, and these benefits are based on his own illness, injury or disability.

This includes, but is not limited to: Workers' Compensation, RSDI, SSI, VA benefits, Black Lung benefits, Medicaid (incapacity, blindness or disability), private insurance, sickness benefits, etc. However, if any of these conditions are questionable, such as a low percentage disability for VA benefits, a physician's statement may still be required.

For SSI and RSDI purposes, being certified for these benefits (approved, but not yet receiving payment withheld to repay, etc.) is the same as receiving them.

- The individual is a veteran with a service-connected or non-service-connected disability rated or paid as total, under Title 38 of the United States Code.
- The individual is a veteran who is considered by the VA to be in need of regular aid and attendance, or permanently housebound, under Title 38 of the United States Code.
- The individual is a surviving spouse of a veteran and is considered by the VA to be in need of aid and attendance, or permanently housebound, under Title 38 of the United States Code.
- The individual is a surviving child of a veteran and is considered by the VA to be permanently incapable of self-support, under Title 38 of the United States Code.
- The individual has one of the following conditions:
 - o Permanent loss of use of both hands, both feet or one hand and one foot.
 - o Amputation of leg at hip.
 - o Amputation of leg or foot because of diabetes mellitus or peripheral vascular diseases.

- o Total deafness, not correctable by surgery or hearing aid.
- o Statutory blindness, unless due to cataracts or detached retina.
- o IQ of 59 or less, which was established after attaining age 16.
- o Spinal cord or nerve root lesions resulting in paraplegia or quadriplegia
- o Multiple sclerosis in which there is damage of the nervous system because of scattered areas of inflammation which recurs and has progressed to varied interference with the function of the nervous system, including severe muscle weaknesses, paralysis and vision and speech defects.
- o Muscular dystrophy with irreversible wasting of the muscles with a significant effect on the ability to use the arms and/or legs.
- o Impaired renal function due to chronic renal disease, documented by persistent adverse objective findings, resulting in severely reduced function which may require dialysis or kidney treatment.
- o Amputation of a limb, when current age is 55 or older.
- Recipients of federal, state or local government disability retirement, who receive such benefits due to one of the conditions specified above. This includes, but is not limited to, payments under Civil Service Retirement (CSR) and Federal Employee Compensation Act (FECA).
 - Those individuals who receive federally- or state-administered supplemental benefits under Section 1616 (a) of the Social Security Act (optional state supplementation to SSI payments) provided that eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act or under Section 212
- (a) or Public Law 93-66. West Virginia has no such program.
- Recipients of annuity payments, under Section 2,(a),(1),(iv) of the Railroad Retirement Act of 1974, who also have been determined eligible to receive Medicare under the Railroad Retirement Act.
- Recipients of an annuity payment, under Section (2),(1),(1),(v) of the Railroad Retirement Act of 1974, who have been determined to be disabled based on the criteria used under Title XVI of the Social Security Act.
- Recipients of benefits from the following Medicaid coverage groups:
 - o SSI-Related Medicaid
 - o Aged and Disabled Waiver (ADW)
 - o Intellectual/Developmental Disabilities (I/DD) Waiver
 - o Traumatic Brain Injury (TBI) Waiver

18.4.7.B.1 documents: The term physician's statement means a medical report from a licensed medical professional, including, but not limited to, Physicians, Surgeons, Doctors of Osteopathy, Chiropractors, licensed or certified Psychologist, and Nurse Practitioners.

18.4.7.B.2 documents: Generally, the statement must contain enough information to allow the Case Manager to determine if the participant is disabled. If the physician makes a definite statement that the participant is permanently and totally disabled, no further information is

needed. Usually, however, the physician describes the situation, and the Case Manager must make the determination. In these situations, the statement must contain:

- The type of condition, including the diagnosis if known;
- Any unusual limitations the condition imposes on the participant's lifestyle; and
- The length of time the condition is expected to last. This is required only to set a control for reevaluation; there is no durational requirement for which the condition must exist or be expected to exist.

18.4.7.B.3 documents: Once the necessary information is received, the Case Manager makes the determination based on the following guidelines:

- If the condition is one listed in Appendix C of Chapter 13 as a guideline for presumptively approving an AFDC-Related Medicaid case, disability is established. No durational time limits are imposed.
- Any other condition must impose limitations on the participant's normal way of life. For example, a case of hypertension, requiring only a special diet and daily medication, does not substantially alter an individual's way of life, since eating is part of his daily routine, and taking medication does not significantly interrupt normal activities. However, a diagnosis of hypertension requiring daily medication, special diet, frequent rest periods and avoidance of stress substantially limits a normal lifestyle.

DISCUSSION

On August 18, 2025, the Respondent imposed a first sanction against the Appellant's WVW cash assistance benefits terminating the assistance for a one-month period. This sanction was a result of the Appellant's failure to comply with her Self-Sufficiency Plan (SSP). Specifically, the Appellant failed to appear for office appointments to update work participation agreements. The imposed sanction resulted in the termination of the Appellant's WVW cash assistance, effective September 1, 2025. The Appellant appeals the Respondent's decision. The Respondent must prove by a preponderance of evidence that the Appellant failed to comply with the program requirements outlined in her SSP.

The Appellant, who was previously employed as a Registered Nurse, is unable to participate in substantial gainful employment due to medical issues related to her shoulder. The Appellant had an initial surgery in 2024, but her condition deteriorated resulting in her inability to engage in employment. Due to the Appellant's unemployment, she applied for the WVW cash assistance program. At application, the Appellant identified a goal of obtaining short-term disability, due to her shoulder issues, on her SSP. (Exhibit D-1) An initial physician statement documented the Appellant's inability to participate in a work activity from April 15, 2025 through May 25, 2025. The Appellant could return to work, without restriction on May 26, 2025. (Exhibit D-8) The Respondent required the Appellant to attend office visits, on August 5 and again August 13, for placement in a work activity. The Appellant failed to appear at multiple in-office appointments resulting in the imposition of the first sanction and termination of benefits. The Respondent afforded the Appellant the opportunity to provide good cause for her non-compliance with the

program requirements on August 22, 2025; however, the Appellant failed to participate. (Exhibit D-13, Exhibit D-17) The Appellant completed a case staffing (Exhibit D-16) and good cause appointment on August 29, 2025, reporting that she was unable to comply with the program requirements due to a recent shoulder surgery in August 2025. The Appellant provided an Operative Report (Exhibit D-15) which documented a surgery date of August 14, 2025, but did not document any restrictions from employment. Based on the related information, the Respondent did not grant good cause for the Appellant's non-compliance and the sanction remained in effect for September 2025.

The Appellant provided testimony concerning her medical issues indicating she completed a second surgery on her shoulder in August 2025. The Appellant reported that the surgery required a six-month recovery timeframe and she relocated to her sister's residence in a neighboring county from August 9, 2025 through August 25, 2025 to convalesce her injury. The Appellant indicated that she received the multiple letters when she returned home but contends the letters do not indicate specific information related to her case. By her own admission, the Appellant indicated that she missed her appointment scheduled for August 5, 2025, and contacted the Respondent, but received no follow-up information. The Appellant contends that she provided information concerning her inability to engage in a work activity to the Respondent's local office worker; however, the worker is no longer employed to corroborate the information. The Respondent testified that the lack of financial assistance due to the sanction creates an additional burden on her household.

Policy requires that when an individual fails to comply with the requirements outlined in the SSP, a sanction is imposed unless the Case Manager determines good cause exists. Sanctions are applied in the form of terminations of WVW cash assistance. First offenses for failure to comply with the SSP result in a termination of benefits for a one-month period.

As part of the SSP, the Appellant agreed to attend any meetings or appointments related to her eligibility for cash assistance and self-sufficiency goals. The Appellant was scheduled for multiple appointments which she failed to appear. While the Appellant maintains her shoulder surgery prevented her participation with program requirements, the surgery was completed after the missed appointments. Because the Appellant failed to comply with the requirements outlined in her SSP, the Respondent's decision to implement a first sanction and terminate cash assistance benefits for one month is affirmed.

CONCLUSIONS OF LAW

- 1) Policy requires that non-compliance with the SSP results in the imposition of a sanction and termination of WVW cash assistance unless the Case Manager determines good cause exists.
- 2) The Appellant completed a SSP agreeing to complete all appointments related to her eligibility and self-sufficiency goals.

- 3) The Appellant failed to comply with the SSP by missing multiple appointments related her self-sufficiency goals on August 5, 2025 and August 13, 2025.
- 4) The Appellant failed to establish good cause for her non-compliance with the SSP.
- 5) The Respondent was correct in its decision to impose a first sanction and terminate the Appellant's cash assistance for one-month.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's decision to sanction and terminate the Appellant's WWW cash assistance benefits.

ENTERED this _____ day of October 2025.

Eric L. Phillips
Certified State Hearing Officer