



June 11, 2024

[REDACTED]

RE: [REDACTED] v. WV DOHS
ACTION NO.: 24-BOR-2072

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 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,

Lori Woodward, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Jessica Geris, WV DoHS BFA

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

████████████████████,

Appellant,

v.

ACTION NO.: 24-BOR-2072

**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 ██████████. 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 June 5, 2024.

The matter before the Hearing Officer arises from the Respondent's April 10, 2024 decision to apply a first-level sanction against the Appellant's WV WORKS/WVEAP (WV WORKS) benefits resulting in case closure and ineligibility for cash benefits for one month.

At the hearing, the Respondent appeared by Jessica Geris, Family Support Specialist. The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Screen print of email exchange between ██████████ and Jessica Geris, dated March 19 and 22, 2024
- D-3 WV Income Maintenance Manual, Chapter 18, §18.7.6.C
- D-4 WV Income Maintenance Manual, Chapter 18, §18.7.5.D
- D-5 Notice of Pending Closure of Benefits (DFA-WVW-5), dated April 9, 2024
- D-6 Notice of Pending Reduction of Benefits (DFA-WFW-NL-1), dated April 9, 2024
- D-7 Notice of WV WORKS/WVEAP closure and good cause appointment (AEO7 and EDC1)

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 a recipient of WV WORKS program benefits.
- 2) The Appellant was to enroll in and begin college classes as part of his WV WORKS program requirements.
- 3) On March 19, 2024, the Appellant informed his worker, Jessica Geris, by email, that he was unable to begin college classes until the summer session, and he would register in May. (Exhibit D-2)
- 4) On March 22, 2024, Worker Geris informed the Appellant by email that he needed to attend TABE testing as part of his program eligibility, with the next testing date of April 2, 2024, noting children were not allowed to attend (Exhibit D-2)
- 5) On March 22, 2024, the Appellant agreed to attend the TABE testing expressing that the only hinderance would be if he began employment. (Exhibit D-2)
- 6) The Appellant failed to attend the April 2, 2024 TABE testing.
- 7) Worker Geris placed a sanction against the Appellant for failing to attend an assigned activity.
- 8) On April 9, 2024, a Notice of Pending Closure of Benefits was sent to the Appellant, notifying him of the Respondent's pending action against his WV WORKS benefits case and that a case staffing appointment had been scheduled for April 15, 2024, at 2:00 p.m. in order to resolve the issue for his failure to meet the terms of his Personal Responsibility Contract (PRC) or Self-Sufficiency Plan (SSP). (Exhibit D-5)
- 9) On April 9, 2024, a Notice of Pending Reduction in Benefits was sent to the Appellant, notifying him of the Respondent's decision to place a one month sanction the Appellant and that a good cause appointment had been scheduled for April 15, 2024, at 2:15 p.m. in order to resolve the issue or establish good cause for his compliance failure. (Exhibit D-6)
- 10) On April 10, 2024, the Respondent sent a notice of closure of the Appellant's WV WORKS benefits due to a first sanction being applied for failure to comply with the

requirements of the Personal Responsibility Contract (PRC) and/or the Self Sufficiency Plan (SSP). (Exhibit D-7)

- 11) The April 10, 2024 closure notice also explained a good cause appointment was scheduled for April 15, 2024, at 2:00 p.m. (Exhibit D-7)
- 12) The Appellant failed to show for the scheduled appointments on April 15, 2024.
- 13) On or about May 7, 2024, the Appellant moved to [REDACTED]

APPLICABLE POLICY

WV IMM, Chapter 18, §18.1.1, *Program Background, in part:* 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 Human Services (DOHS) and the WV WORKS participant. ... 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.

WV IMM, Chapter 18, §18.4 WV WORKS Participation Requirements, in part: Each adult and emancipated minor who receives WV WORKS benefits and non-recipient Work Eligible Individual must meet a work requirement at a minimum rate of participation. The work requirement does not necessarily mean that the participant must be employed. Work, however, is the focus of WV WORKS. The activities that meet the work requirement are listed in Sections 18.10 – 18.18. Work-Eligible Individuals are those whose participation in work activities contributes in determining if the family counts in the calculation of the state’s work participation rate, except for the following:

- Work-Eligible Individuals providing care for a disabled family member living in the home. Medical documentation must be provided to substantiate the need for the Work-Eligible Individual to provide this care.
- Single parents with a child under the age of one year. This is an exemption for a maximum of 12 months in a lifetime. See Section 14.9.

WV IMM, Chapter 14, §14.6, WV WORKS Requirements: Effect of the Work Aspect on Eligibility, in part: 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.

WV IMM, Chapter 18, §18.7.5.D, Missed Appointments: Failure, without good cause (see Chapter 14.9), to keep appointments to initiate or continue the assessment process indicates a failure/refusal to cooperate or participate. The Case Manager may provide written notice of the

appointment by including it on the initial SSP or by using any approved appointment forms. The written notice may be given to him during the interview or may be mailed. If no record of the issuance of the notice will be shown in the eligibility system or on a signed SSP, the Case Manager must record that such a notice was issued and include the date/time of the appointment. When a letter is mailed scheduling the appointment, the Case Manager must allow no less than seven calendar days. This period begins the day following the date the letter is requested in the eligibility system or when a manual letter is sent. When an appointment is scheduled in writing and the applicant misses the appointment, a sanction may be imposed without making a second appointment, unless the applicant has good cause or contacts the Case Manager to reschedule the appointment. When an appointment is unscheduled, a sanction may not be imposed for failure to be available. Instead, the Case Manager must schedule a second appointment in writing. Failure, without good cause, to keep the second appointment or reschedule it results in a sanction.

WV IMM, Chapter 18, §18.7.6.C, TABE Testing: The purpose of TABE testing is to measure basic academic skills such as reading, math, language, and spelling through real-life and academic questions. Scores are given in grade level equivalents. **The Case Manager must schedule all Work-Eligible Individuals for TABE unless one of the exceptions listed below exists.** Based on the elements measured by each test, as found below, the Case Manager determines which test is more appropriate. Copies of test results are to be requested for participants who have completed TABE, Work Keys, or other similar assessment testing at WorkForce West Virginia, ABE, One-Stop Centers, vocational training centers, etc. [Emphasis added]

WV IMM, Chapter 18, §18.7.6.C.1, Exceptions to Completing TABE Testing:

Exceptions to completing TABE testing include:

- Participant has completed two or more years of college or is currently attending or is enrolled in the next scheduled term at a college or vocational/technical program which requires a high school diploma or equivalency. Under certain circumstances, however, testing may be warranted if the student has a known learning disability, or his basic academic skills are deficient; or
- Participant is scheduled to begin a job which will make the family financially ineligible for a monthly WV WORKS check; or
- Other documented conditions exist that prevent effective assessment. These reasons must be documented in the case recording; or
- Participant completed TABE or other appropriate assessment testing at another agency, training facility, such as WorkForce West Virginia, ABE, or other agency unless one of the conditions listed below exists.

WV IMM, Chapter 14, §14.8, WV Works Sanctions, in part: 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. Information about development of the SSP is found in Chapter 18. Information about the PRC and SSP as an eligibility requirement is found in Section 1.5.

WV IMM, Chapter 14, §14.8.1, Definition Of A Sanction, in part:

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.

...

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

DISCUSSION

Policy requires a sanction be imposed when a participant of WV WORKS fails to comply with the requirements of the Personal Responsibility Contract (PRC) or a Self-Sufficiency Plan (SSP), unless the case manager determines that good cause exists. Case managers are given considerable discretion in imposing a sanction or granting good cause. A case staffing or good cause meeting is required before a sanction can begin. Implemented sanctions result in the termination of WV WORKS cash assistance benefits. The penalty for first-level sanction results in the termination of WV WORKS benefits for a period of one month.

Because the Appellant's case manager, Jessica Geris, determined that the Appellant failed to attend the required TABE testing scheduled for April 2, 2024, a first-level sanction was applied with notification to the Appellant sent on April 10, 2024. The April 10, 2024 notification included a good cause appointment scheduled for April 15, 2024 at 2:00 p.m. Additionally, on April 9, 2024, a Notice of Pending Closure of Benefits (DFA-WVW-5) and Notice of Pending Reduction of Benefits (DFA-WVW-NL-1) was sent to the Appellant notifying him of the April 15, 2024 case staffing and good cause appointments. The Appellant failed to appear for the April 15, 2024 case staffing and good cause appointment. The Appellant's WV WORKS benefits terminated effective May 1, 2024.

Worker Geris testified that per policy, the Appellant was required to attend TABE testing as he did not meet any of the exemptions. The Appellant did not dispute the fact that he failed to attend the TABE testing. Instead, the Appellant contended that he should not have been required to participate in TABE testing as he has a GED and is a college student. Moreover, the Appellant testified that he was unable to attend the TABE testing because he was not allowed to bring his children. Worker Geris explained that the Appellant was given an opportunity to express these reasons for his non-attendance at the scheduled case staffing and good cause appointments scheduled for April 15, 2024, however, he failed to attend. The Appellant had other complaints regarding SNAP and LIEAP programs that he made against Worker Geris. However, those issues were not within the scope of the issue for this hearing, and therefore were not addressed.

Policy requires that all WV WORKS participants must complete TABE testing as part of program eligibility unless otherwise exempt. The evidence and testimony presented showed that the Appellant had not been enrolled in college classes. Additionally, the only barrier to his attendance at the TABE testing that the Appellant expressed to Worker Geris was the possibility of beginning

employment. The Appellant had the opportunity at the scheduled appointments on April 15, 2024, to discuss the reasons for his failure to attend the TABE testing, but he failed to show.

Whereas the Respondent showed by a preponderance of evidence that the Appellant failed to attend the scheduled TABE testing and was not otherwise exempt, the Respondent's decision to place a first-level sanction against the Appellant is affirmed.

CONCLUSIONS OF LAW

- 1) Because the Appellant failed, without good cause, to adhere to attend the scheduled TABE testing on April 2, 2024 as part of his WV WORKS program eligibility, the Respondent correctly imposed a sanction.
- 2) Policy requires a one month closure of WV WORKS benefits for first-level sanctions.
- 3) As this is the Appellant's first sanction, the Respondent correctly determined that the Appellant is ineligible for WV WORKS/WVEAP benefits for one month.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to apply a first-level sanction to the Appellant's WV WORKS benefits.

ENTERED this 11th day of June 2024.

Lori Woodward, Certified State Hearing Officer