



October 24, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-3319

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 West Virginia 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,

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

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

cc: Tanya Tyler, BFA

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-3319

**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 October 17, 2024, on appeal filed September 26, 2024.

The matter before the Hearing Officer arises from the August 13, 2024 decision by the Respondent to terminate the Appellant’s West Virginia Works cash assistance program benefits.

At the hearing, the Respondent appeared by Tanya Tyler, Family Support Supervisor. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

None

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 West Virginia Works cash assistance.
- 2) At application, the Appellant completed a Self-Sufficiency Plan. (SSP)
- 3) The Appellant identified a lack of childcare as a main barrier for obtaining employment on the SSP.
- 4) The Appellant was considered homeless.
- 5) The Respondent referred the Appellant to a childcare referral agency to secure childcare services.
- 6) The Appellant was required to participate in a job readiness activity at the [REDACTED] [REDACTED] for May 2024.
- 7) As of May 2024, the Appellant failed to participate with the WV WORKS program and secure childcare.
- 8) On June 6, 2024, a case staffing was completed to address the Appellant's inability to adhere to program requirements.
- 9) The Appellant cited familial illness to her inability to participate and provided physician's statements to her worker to support her claims.
- 10) The Respondent awarded the Appellant good cause for her failure to adhere to the SSP requirements for April 2024 and May 2024.
- 11) On June 28, 2024, a home visit to discuss program progression.
- 12) At the home visit, the Appellant agreed to submit a list of childcare facilities in which she contacted to obtain childcare services.
- 13) The Appellant failed to adhere to her SSP for June, July and August 2024.
- 14) The Appellant failed to provide the Respondent with a childcare contact.
- 15) A case staffing was completed in August 2024.
- 16) On September 13, 2024, the Respondent implemented a sanction and terminated the Appellant's WV WORKS benefits, effective August 31, 2024, for failing to adhere to the requirements of her SSP.
- 17) On September 5, 2024, the Respondent was approved for childcare assistance.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 14.8 documents 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.

West Virginia Income Maintenance Manual § 14.8.1 documents 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. 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 § 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 § 14.9 documents in pertinent part:

All Work-Eligible Individuals must be placed into an allowable activity described in Chapter 18.10 – 18.18 on approval date after negotiation of the Self-Sufficiency Plan (SSP), unless a good cause reason discussed below exists. The participant must remain in that activity until either the case is closed at the end of the month or the Case Manager and participant agree to change the activity. The Case Manager has considerable discretion in imposing a sanction or granting good cause. The Case Manager must determine whether or not the participant is meeting the requirements, attempting to comply with the best of his ability, understands the requirements, and the sanction process. The Case Manager may determine that the requirement was inappropriate based upon additional assessment. In addition, the Case Manager may determine that not applying a sanction in a particular situation provides more motivation for future participation than the imposition of a sanction. The applicant may not claim good cause for failure to enroll in or complete a substance abuse treatment and counseling program and a job skills program following a positive drug test. Should unforeseen circumstances prevent the applicant from enrolling in a treatment and counseling program within seven business days, the Case Manager may allow additional time to enroll. Individuals who refuse to enroll in a substance abuse treatment and counseling program and a job skills program are ineligible for WV WORKS until enrolled. The Case Manager must determine if good cause exists

if a parent or a non-parent caretaker relative included in the payment, or a non-recipient Work-Eligible Individual quits or refuses employment within the 30-day period prior to the date of application or when the client fails or refuses to meet his work requirement and/or adhere to his SSP requirements. Appropriate documentation must be provided, and the circumstances must be recorded in comments, where applicable. Some reasons for granting good cause for temporarily not meeting participation requirements, the beginning date of eligibility, and the 24-month eligibility requirement are life events or problems such as, but not limited to:

- The death of a spouse, parent, child, or stepchild.
- In accordance with the Family and Medical Leave Act (FMLA) of 1993, an acute, life-threatening illness of a spouse, parent, or child that requires the client's immediate attention. This does not include individuals who are exempt from participation due to caring for a disabled family member as outlined in Section 14.7.
- The 12-week period following the placement of a child with the participant for adoption or foster care.
- The minimum suitability standards for the specific activity are not met. See Sections 18.10 – 18.18 for minimum requirements. If none are listed for the activity, the Case Manager must determine if the activity placed unreasonable requirements on the client. The Case Manager must schedule an appointment or home visit for individuals granted good cause for this reason to review the situation and possible SSP update.
- An appointment to update the SSP and place the individual in another component must be scheduled as soon as possible.
- The parent, an included non-parent caretaker, or a non-recipient Work-Eligible Individual quits employment or fails to participate in his assigned activity due to enrollment and full-time attendance in school, training, or an institution of higher learning. The SSP must be updated and these individuals should be placed in the Vocational Educational Training (VT), Secondary School (AB), or College (CL) components as soon as possible.
- The participant is required to appear in court or for jury duty. Failure or refusal to comply, without good cause, results in imposition of a sanction and a notice of adverse action must be issued, which includes scheduling the good cause interview. The appointment date for the good cause interview must be scheduled at least seven calendar days after the day following the date the letter is requested in the eligibility system or the day following the date a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the participant. If the appointment is scheduled for a date prior to the seven calendar days, the participant and the Case Manager must agree on the appointment date. See Section 9.3.3 and Section 9.3.6. A system generated letter or a manual letter (DFA-WWW-NL-1) is used. All of these good cause determinations must be recorded in the case management system. All good cause determinations must be reviewed monthly and the Case Manager must update the case comments with the information on the status of the participant. The Case Manager must enroll the participant in the Other Work Activities (OW) component to capture time spent with the customer during these monthly reviews. Once the good cause

determination has been reviewed and the Case Manager determines that the good cause reason is still appropriate or the customer may be assigned to a countable work activity, the time spent for that review is entered as completed hours for the OW component. Comments are completed, and the participant is disenrolled from the OW component.

West Virginia Income Maintenance Manual § 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 (DFA-WVW-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.

DISCUSSION

West Virginia Works (WV WORKS) is a Temporary Assistance for Needy Families (TANF) program, which provides cash assistance to aide needy families to achieve self-sufficiency. Under program guidelines, eligible families must complete federally established monthly hours of approved work activities in order to meet the participation requirements. All participants are required to complete a Personal Responsibility Contract (PRC) or Self-Sufficiency Plans (SSP) to identify specific goals and the activities required to achieve such goals. Non-compliance with the requirements found on the PRC or SSP, results in the imposition of a sanction unless the Case Manager determines that good cause exists. Sanctions are applied in the form of a termination of the WV WORKS benefit. The first offense results in ineligibility for cash assistance for one month, the second offense results in ineligibility for cash benefits for six months, and the third and all subsequent offenses result in ineligibility for cash assistance for twelve months.

In August 2024, the Respondent sanctioned and subsequently terminated the Appellant's WV WORKS benefits for failure to adhere to the requirements of her SSP. Specifically, the Respondent determined that the Appellant failed to participate in her assigned job readiness activity from June 2024 through August 2024. The Appellant appeals the Respondent's decision to terminate benefits. The Respondent must prove by a preponderance of the evidence that the Appellant failed to meet the responsibilities outlined in the SSP.

At initial application, the Appellant indicated homelessness and a lack of childcare as barriers preventing her from obtaining employment. To eliminate the childcare barrier, the Respondent referred the Appellant to [REDACTED] a childcare referral agency, and required her participation with a job readiness program with the [REDACTED]. From April 2024 through May 2024, the Appellant failed to participate or demonstrate her compliance with obtaining childcare. The Respondent imposed an initial sanction; however, the sanction was later rescinded because the Appellant established good cause for non-compliance due to verified familial illnesses. The Appellant continued her non-compliance with the childcare and job readiness portions of her SSP from June 2024 through August 2024, which resulted in the imposition of a sanction and the termination of WV WORKS benefits, effective August 31, 2024. This was the Appellant's second sanction. Both parties indicated that a case staffing was completed prior to the implementation of the sanction in August 2024.

The Appellant provided testimony which outlined her many barriers that prevented her participation with the program, including children's illnesses and homelessness. The Appellant testified that she completed the requirements concerning the childcare issues and testimony revealed that the Appellant was awarded a childcare certificate on September 5, 2024, after the implementation of the second sanction.

Governing policy mandates that second and subsequent WV WORKS sanctions require supervisory approval with a case staffing being completed prior to sanction implementation. Policy requires that the worker document on a specific form, DFA-WVW-6 and in comments, the dates that the case staffing was scheduled and the results of the completed case staffing. Further, policy establishes that these case staffing meetings are utilized to discuss with the participant the

reasons for the sanctions and explore the non-compliance with program requirements. Specifically, these meetings are designed for the case manager and participant:

- To inform the participant of supportive services, including agency services or community resources, available to the participant to address challenges with participation.
- To discuss plans for meeting the children's needs, including payment for rent, utilities, and payment for extra expenses during the termination of the WV WORKS benefit.
- To explain the unavailability of Emergency Assistance during the first three months of second and subsequent sanctions.
- To explain that Supplemental Nutrition Assistance Program (SNAP) benefits will not increase due to the loss of WV WORKS
- To explain that good cause must be established to avoid a sanction.

Policy is clear that a case staffing must be completed between the case worker and participant prior to the imposition of a sanction. These meetings must be documented on a specific form, DFA-WVW-6 and in case comments. It shall be noted that neither party presented any evidence for review. Due to questionable testimony, there was an issue of whether a case staffing had been completed prior to imposition of the sanction. However, both parties testified that a meeting was completed in August 2024; therefore, it is reasonable to assume that this meeting was indeed considered a case staffing meeting. The evidence failed to prove that the necessary documentation regarding the case staffing, including the DFA-WVW-6 and case comments, were completed prior to the imposition of sanction. Therefore, the preponderance of evidence did not establish that the Respondent completed the necessary requirements prior to the imposition of sanction and termination of benefits. The decision to impose a second sanction and terminate the Appellant's WV WORKS cash assistance benefits cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Policy mandates that participant non-compliance with the SSP or PRC results in the imposition of a sanction, unless good cause is established.
- 2) Sanctions are in the form of termination of the WV WORK benefit. The penalty for a second sanction is the ineligibility WV WORK cash assistance for a period of six months.
- 3) A case staffing meeting is required before all sanctions commence. The worker must document in comments the dates of when the case staffing was scheduled and the outcomes of the completed case staffing on a DFA-WVW-6 and in case comments.
- 4) The Appellant was non-compliant with her SSP, which resulted in the imposition of a second sanction and termination of WV WORKS cash assistance benefit effective August 31, 2024.

- 5) A case staffing was completed in August 2024, prior to commencement of the second sanction.
- 6) The Respondent failed to demonstrate through evidence the scheduling and achieved outcomes of such case staffing meeting as is required in the documentation and case comments.
- 7) The Respondent failed to prove by a preponderance of evidence that it met the necessary actions prior to the implementation of the second sanction on termination of the Appellant's WV WORKS cash assistance benefits.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to impose a second sanction and terminate the Appellant's WV WORKS cash assistance benefits.

ENTERED this _____ day of October 2024.

Eric L. Phillips
State Hearing Officer