

13.9 WV WORKS SANCTIONS

When a member of the AG or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC, a sanction must be imposed unless the Worker determines that good cause exists. Information about development of the PRC is found in Chapter 24. Information about the PRC as an eligibility requirement is found in Chapter 1.

NOTE: When the person whose actions cause a sanction to be imposed becomes an SSI recipient prior to imposition of the sanction, no sanction is imposed. In addition, the offense is not counted when determining the level of subsequent sanctions. If the family has already been sanctioned when the offender becomes an SSI recipient, the sanction is lifted as soon as possible considering RAPIDS deadlines. The partial sanction already served counts when determining the level of the subsequent sanctions.

NOTE: If a disabled client chooses to participate, no sanction is imposed for failing to meet the work requirements if the Worker or Supervisor determines the participant failed to meet the PRC requirements due to his disability. WV WORKS participants who have a documented disability must be placed in the AD component in Work Programs in addition to other component codes.

A. DEFINITION OF SANCTION

NOTE: Once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.

Sanctions are applied in the form of benefit reductions and, for the 3rd or subsequent offense, termination of benefits. The amount of the benefit reduction is a fixed amount and is determined as follows:

1st Offense = 1/3 reduction in the benefit amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months

2nd Offense = 2/3 reduction in the benefit amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months. If the case is in a 1/3 reduction when the 2nd sanction is applied, the 2/3 reduction is applied to the benefit amount the client would be eligible to receive, prior to recoupment; if it was not already reduced by 1/3.

3rd and All Subsequent Offenses = Ineligibility for cash assistance for 3 months.

NOTE: See item C below for information about the mandatory home visit after imposition of the 2nd sanction.

Work Requirements

All benefit reductions due to imposition of a sanction require advance notice. See Chapter 6 for specific information. Unless the client shows good cause for non-compliance, the sanction is imposed. This is true even if the client complies after the notice is sent but before the sanction is effective.

Once a reduction in benefits or ineligibility is imposed, i.e. after expiration of the advance notice period, the reduction or ineligibility remains in effect for the pre-determined number of months, regardless of case status.

B. CONCURRENT SANCTIONS

When an additional offense for the same or a different requirement occurs during a sanction period, the next level of sanction is imposed, after proper notification. The client must also be given the opportunity to establish good cause, regardless of the length of time remaining for the sanction that is already in effect. Sanctions may, therefore, run concurrently.

When 2 or more offenses, by the same individual or by different individuals occurs prior to the Worker's having mailed the advance notice to the client, it is treated as if only one offense has occurred. Even though all offenses must be addressed in the client notification, only one sanction is imposed. However, if an additional offense, by the same individual or by a different individual(s), occurs after the Worker has mailed the client notification of the preceding offense, an additional sanction may be imposed after proper notification and the opportunity to establish good cause.

C. BEGINNING OF THE SANCTION PERIOD

The sanction period begins the month after expiration of the advance notice period. A sanction is not imposed by having the client repay all or part of the benefit he has already received. A reduced benefit amount for 3 months or termination of cash assistance for at least 3 months is the only means by which a sanction is imposed. Imposition of a sanction may be delayed by a Fair Hearing request. When the Department is upheld, the sanction begins in the month following the Fair Hearing decision.

If the decision is reached after the RAPIDS deadline date, the sanction begins 2 months after the decision.

After the 2nd sanction has been imposed, the Worker must make a home visit. The visit may occur anytime after notification that the 2nd sanction has been imposed, but before notifying the client of the 3rd sanction. It is recommended that the visit occur as soon as possible after the 2nd sanction to try to avoid a 3rd sanction. When the 3rd sanction occurs prior to the home visit, the imposition of the 3rd sanction must be delayed until the home visit is completed. The Worker must attempt 2 home visits before imposing the 3rd sanction without a home visit. At least one of the visits must be scheduled in writing.

Work Requirements

During the home visit, the Worker must discuss with the client the reason(s) for the 2nd sanction. The Worker will explore with the client why he has not complied with the PRC or otherwise participated and cooperated. During the visit, the Worker 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 Worker must also discuss the following during the home visit:

- Plans for how the children's needs will be met when the WV WORKS benefit stops.

NOTE: Under no circumstances is the Worker to suggest or indicate that the loss of WV WORKS income will result in removal of the children from the home.

- 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 Emergency Assistance is not available for a family serving a sanction.
- Explain that Food Stamp benefits will not increase for 3 months due to the loss of WV WORKS.
- Explain that the client must establish good cause to avoid a 3rd sanction.

The home visit does not substitute for advance notice of any additional sanctions or for any good cause appointments.

NOTE: A home visit is not required for subsequent sanctions after a 3rd sanction.

D. PROCEDURES WHEN THE SANCTION PERIOD ENDS

The 1st and 2nd sanction periods expire when the client has received reduced benefits for three months. The 3rd sanction period ends when the client's WV WORKS benefit has been closed for 3 months. Eligibility cannot begin until the 4th month following the imposition of the sanction. Once the sanction period has started, it runs for the appropriate number of consecutive months, whether the case remains active or not. In addition, once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.

Work Requirements

EXAMPLE: A 2/3 reduction is applied to a case for its 2nd sanctionable offense. The sanction begins with the check received in March. In April the client requests his case be closed and the Worker closes the case. In May the client reapplies for cash assistance and he is determined eligible. However, because he would have been sanctioned in May had he not requested case closure, the sanction is applied when the application is approved. Assuming no other offenses occur, his benefit is increased to the full check amount beginning in June.

However, if the client is not notified of the imposition of the sanction prior to case closure, no sanction may be imposed until the client has received proper notice. Therefore, even when the case is closed prior to the mailing of the adverse action notice, the Worker must still notify the client of the imposition of the sanction. Rather than addressing a reduction in current and ongoing benefits, the notification letter must explain that the sanction will be applied upon reapplication if the client chooses to reapply during the sanction period. The letter must specify the dates of the sanction period. The client may request a Fair Hearing on the sanction issue when the notification is received or upon reapplication within 90 days of closure notification.

EXAMPLE: On June 22nd, the client calls the Worker to request case closure, but refuses to state the reason for the request. The Worker takes action to close the case, as requested. On June 24th, a client's employer calls the Worker to report that the client has not appeared for work for the last 3 days and has not contacted him to explain. The Worker sends the client an adverse action notice explaining that a sanction will be imposed if he reapplies in August, September or October, unless he can demonstrate good cause for his failure to report for work without notifying his employer of the reason within the advance notice period.

The client does not respond. On September 20th, the client reapplies. He explains that his mother, who lives in Maryland, became very ill suddenly and was hospitalized. Her doctor said that she would be unable to live alone after leaving the hospital, so he and his family left for Maryland with the intention of staying there indefinitely. Since that time, his mother has been placed in a nursing home and his family returned to WV. The Worker accepts his explanation as good cause but explains that, since the advance notice period expired prior to his claim of good cause, he must approve the case with reduced benefits for September and October. The client may request a Fair Hearing on the approval with reduced benefits.

After the 1st and 2nd sanctions end, the Worker must automatically increase benefits without waiting for the client to request the increase. This increase also requires client notification, as found in Chapter 6. However, once cash assistance is stopped due to imposition of the 3rd sanction, the client must reapply to reinstate benefits. The client may reapply at any time, but applications made prior to the expiration of the 3-month sanction are denied.

E. DETERMINING THE NUMBER OF SANCTIONS WHEN THE AG OR NON-RECIPIENT WORK-ELIGIBLE INDIVIDUAL SEPARATES

WV WORKS sanctions are applied to all Work-Eligible members of a WV WORKS case, not only to the individual who causes the sanction. Therefore, the following information is used to determine the number of sanctions when the sanctioned WV WORKS case separates into 2 or more cases or when 1 or more household member leaves the case.

Work Requirements

- Each adult and emancipated minor included in the same WV WORKS AG, and each non-recipient Work-Eligible Individual, is assigned one sanction for each time the case is sanctioned.

EXAMPLE: Mr. and Mrs. Tony receive WV WORKS for themselves and their 2 children. Mr. Tony refused an offer of employment without good cause and a sanction is applied to the case. The case has 1 sanction; therefore, Mr. Tony is assigned 1 sanction and Mrs. Tony is assigned 1 sanction.

- When an adult or emancipated minor leaves the home, he takes his assigned sanctions with him. Those adults and emancipated minors remaining in the home retain their assigned sanctions.

EXAMPLE: Continuation of the previous example. After application of the sanction, Mr. Tony leaves the home. Mrs. Tony is the only adult remaining in the AG. She carries the sanction that was assigned to her when Mr. Tony refused a job, so the sanction continues.

- When a Work-Eligible adult or emancipated minor leaves the home of one WV WORKS case and joins another one, all members of the new AG and any non-recipient Work-Eligible Individuals are assigned the same number of sanctions. This number is determined by assigning each adult/emancipated minor the highest number of sanctions assigned to any one of the adults/emancipated minors in the new AG or any non-recipient Work-Eligible Individuals.

EXAMPLE: Continuation of previous example. When Mr. Tony leaves Mrs. Tony, he moves in with a former fiancée, Nellie. Mr. Tony is the father of 2 of Nellie's children. Nellie and her 3 children are WV WORKS recipients. Nellie previously failed, without good cause, to cooperate with BCSE in obtaining support for her third child. In addition, she failed, without good cause to continue her CWEP placement. Nellie's case has been sanctioned twice. When Mr. Tony joins her AG, he is assigned 2 sanctions, since Nellie has the higher number of sanctions. After 6 months, Mr. Tony decides to return to his wife. When he leaves, Nellie continues to have 2 sanctions. When Mr. Tony returns to his wife, he now has 2 sanctions that were assigned to him from Nellie's case. Therefore, the case which includes Mr. and Mrs. Tony now has been assigned 2 sanctions. The next offense by Mr. or Mrs. Tony results in application of the 3rd sanction, case closure.

Upon learning of his sanction status, Mr. Tony goes back to live with Nellie. Mr. Tony and Nellie each continue to have 2 assigned sanctions. Shortly after his return, Nellie fails to keep an appointment with a prospective employer. She tells the Worker that she wanted to stay home

Work Requirements

to be with the father of her children. The Worker determines that she did not have good cause and applies the 3rd sanction. Mr. Tony immediately returns to his wife. This makes his wife and children ineligible since he was included in Nellie's case when the 3rd sanction was applied.

EXAMPLE: A household consists of Mr. and Mrs. Green and their 2 children. Mr. Green was convicted of a drug felony and is not included in the WV WORKS benefit. Mrs. Green has incurred 2 previous WV WORKS sanctions. Due to a change in policy in July 2007, Mr. Green is now a non-recipient Work-Eligible-Individual. Mr. Green is immediately assigned 2 WV WORKS sanctions previously incurred by Mrs. Green.

EXAMPLE: Ms. Smith is a non-recipient Work-Eligible Individual because she is a parole violator. She fails to attend her assigned activity without good cause and a sanction is applied to the case. The case now has one sanction.

- Sanctions applied to a case are never assigned to dependent children.

EXAMPLE: One of Mr. and Mrs. Tony's children runs away to live with his grandmother. She applies for WV WORKS for him and herself and is approved. Because he is a dependent child, no sanctions are assigned to the new AG even though his previous AG has 3 sanctions.