



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
Post Office Box 2590  
Fairmont, WV 26555-2590

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

September 21, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 1, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your benefits under the West Virginia Works Program based on application of a third-level (3<sup>rd</sup>) program sanction.

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.

Eligibility for the West Virginia Works Program is based on current policy and regulations. Some of these regulations state that when a member of the benefit group does not comply with the requirements found on his or her Personal Responsibility Contract (PRC), a sanction must be imposed unless it is determined that good cause exists. For a third offense and all subsequent offenses the sanction consists of ineligibility for cash assistance for 3 months or until compliance, whichever is later. Once a sanction has been imposed, it cannot be stopped until the appropriate action is taken or the appropriate time has elapsed, whichever is later. (West Virginia Income Maintenance Manual § 13.9)

The information submitted at your hearing reveals that you failed to comply with the requirements on your PRC. Because you were unable to establish good cause for non-compliance, the Agency has correctly proposed that a third-level sanction be applied to your WV WORKS case.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to apply a sanction in your WV WORKS case. A 3<sup>rd</sup> sanction will be applied to your WV WORKS case effective October 1, 2006.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Christine Murphy, FSS, DHHR

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 06-BOR-1036**

**West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on September 21, 2006 for \_\_\_\_\_. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was originally scheduled to convene on May 16, 2006 but was continued at the request of the Claimant. This hearing convened on August 1, 2006 on a timely appeal, filed January 31, 2006.

It should be noted that WV WORKS benefits have continued pending the hearing.

**II. PROGRAM PURPOSE:**

The program entitled WV Works is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

WV Works was created by Senate Bill 140, Article 9 of the West Virginia Code and the Temporary Assistance to Needy Families Block Grant, Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The purpose of WV Works is to provide assistance to needy families with children so they can be cared for in their own home, reduce dependency by promoting job preparation, work and marriage. The goals of WV Works are to achieve more efficient and effective use of public assistance funds, reduce dependence on public programs by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

### **III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
Christine Murphy, FSS, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

### **IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether the Department was correct in its proposal to terminate the Claimant's benefits and services through the WV WORKS Program based on the imposition of a 3<sup>rd</sup> sanction.

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 1.25 and 9.21

### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

#### **Department's Exhibits:**

- D-1 WV WORK Personal Responsibility Contract
- D-2 WVDHHR Office of Family Support Participant Time Sheet
- D-3 Notice of Decision dated 1/19/06
- D-4 Claimant's request for a hearing
- D-5 Case Comments from RAPIDS dated 12/16/05 to 2/2/06
- D-6 WVIMM Chapter 1.25, 13.9 & 13.10

### **VII. FINDINGS OF FACT:**

- 1) On or about January 19, 2006, the Claimant was notified via a Notice of Decision (Exhibit D-3) that the Department was applying a third-level sanction to her WV WORKS benefits due to failure to comply with the requirements of the Personal Responsibility Contract (PRC). This notice states that benefits will stop effective January 2006
- 2) The Department submitted Exhibit D-1, the Claimant's Personal Responsibility Contract, hereinafter PRC, which was signed by the Claimant on December 16, 2005. By signing the PRC, the Claimant agrees to the terms and conditions contained therein. The Department cited the Claimant's requirement to turn in time sheets by the 5<sup>th</sup> of each month. It should also be noted that the Claimant agreed to complete 20 hours per week of community service at IOP and Humane Society for Probation Terms.

- 3) The Department presented testimony to indicate that efforts were made to accommodate the Claimant when it was determined that she did not turn in her time sheet by January 5, 2006. This is confirmed in Exhibit D-5, wherein documentation dated 1/11/06 confirms that the Claimant was given until 1/13/06 to turn in her participation time sheet.
- 4) Exhibit D-2 is the WVDHHR Office of Family Support Participation Time Sheet that was submitted by the Claimant. This document was date-stamped "received" by the Department on January 18, 2006
- 5) The Claimant participated in the "Good Cause" appointment scheduled on January 31, 2006, however, the Department purports that the Claimant failed to establish good cause for non-compliance with her PRC.
- 6) The Claimant originally testified that she mailed her time sheet by January 5, 2006 but later stated that she wasn't sure when she mailed it although it should have been received by the Department before January 13, 2006. The Claimant also acknowledged that the participation time sheet does not reflect the required 20 hours of work per week as required in her PRC.
- 7) Policy found in Chapter 1.25, T, provides that the PRC form (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the WV WORKS AG and the Worker. Failure, without good cause, to adhere to the responsibilities contained in Part 1 of the PRC results in imposition of a sanction against the benefit group. Refusal or other failure, without good cause, to adhere to the self-sufficiency plan (Part 2 of the PRC) results in imposition of a sanction against the benefit group.
- 8) West Virginia Income Maintenance Manual ' 13.9:  
When a member of the benefit group does not comply with the requirements found on his PRC, a sanction must be imposed unless the worker determines that good cause exists.  
1<sup>st</sup> Offense- 1/3 reduction in the check amount for 3 months.  
2<sup>nd</sup> Offense- 2/3 reduction in the check amount for 3 months.  
3<sup>rd</sup> Offense and all subsequent offenses-Ineligibility for cash assistance for 3 months or until compliance, whichever is later.
- 9) West Virginia Income Maintenance Manual ' 13.9 (D) states that once a sanction has been imposed, it cannot be stopped until the appropriate action is taken or the appropriate time has elapsed, whichever is later.
- 10) West Virginia Income Maintenance Manual ' 13.10 sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract.
- 11) West Virginia Income Maintenance Manual ' 13.9 (C) states that the 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.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that failure, without good cause, to adhere to the responsibilities contained in Part 1 of the PRC results in imposition of a sanction against the benefit group. Refusal or other failure, without good cause, to adhere to the self-sufficiency plan (Part 2 of the PRC) results in imposition of a sanction against the benefit group.
- 2) When a member of the benefit group does not comply with the requirements found on his/her PRC, a sanction must be imposed unless the worker determines that good cause exists. A third-level sanction and all subsequent offenses result in ineligibility for cash assistance for 3 months or until compliance, whichever is later.
- 3) The Claimant's testimony was inconsistent and incredible. While mail can be lost or slowed by the U. S. Postal Service, the Department Worker, in an attempt to be accommodating, allowed the Claimant eight (8) additional days (until 1/13/06) to provide her time sheet before the sanction was imposed. In addition to not submitting her time sheet when required, the Claimant failed to satisfy her PRC 20-hour work week requirement.
- 4) Whereas the Claimant was unable to establish good cause for failing to adhere to her PRC, the Agency has correctly proposed applying a 3<sup>rd</sup> sanction to her WV WORKS case.
- 5) In accordance with existing WV WORKS Policy, the sanction will be effective October 1, 2006, the month following the Fair Hearing Decision.

### **IX. DECISION:**

After reviewing the information presented during the hearing, and the applicable policy and regulations, I am ruling to **uphold** the proposal of the Agency to apply a 3<sup>rd</sup> sanction to your WV WORKS benefits. This sanction will be effective October 1, 2006.

### **X. RIGHT OF APPEAL:**

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 21<sup>st</sup> Day of September 2006.**

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**Thomas E. Arnett**

**State Hearing Officer**