



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

June 16, 2006

Dear Mr. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 4, 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 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 failed to establish good cause for non-compliance, the Department has correctly proposed that a 3rd 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 3rd Sanction will be applied to your WV WORKS case effective July 1, 2006.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Kimberly Cox, FSS, DHHR

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

____,

Claimant,

v.

Action Number: 06-BOR-1525

**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 June 16, 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 convened on May 4, 2006 on a timely appeal filed January 6, 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
_____, Co-Claimant / Spouse
Kim Cox, FSS, DHHR
Selena Straughn, 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 through the WV WORKS Program based on a 3rd Sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.25, 9.21, 13.9, 13.10 & 24.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Works – Personal Responsibility Contract (PRC), Part 1 of 2
- D-2 WV Works – Personal Responsibility Contract (PRC), Part 2 of 2
- D-3 WV Works Appointment Notice dated 3/14/06
- D-4 Case Comments from RAPIDS – 3/28/06 to 4/07/06
- D-5 Notice of Decision dated 4/10/06
- D-6 WVIMM 1.25
- D-7 WVIMM 13.9
- D-8 WVIMM 24.4

VII. FINDINGS OF FACT:

- 1) On or about April 10, 2006, the Claimants were notified via a Notice of Decision that the Department was applying a 3rd Sanction to their West Virginia Works case. Exhibit D-5 indicates that the Claimants' WV WORKS benefits will stop effective April 2006 and that a third-level sanction is being applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC). This notice goes on to advise the Claimants that a Good Cause appointment was scheduled on April 14, 2006.

- 2) The Department submitted exhibits D-1 and D-2, Personal Responsibility Contract, hereinafter PRC, Parts 1 and 2, signed by the Claimant on March 1, 2006. The Department noted that in both sections of the PRC, the Claimant agreed to attend any meetings/appointments related to eligibility for cash assistance and self-sufficiency goals. Part 2 of the PRC states specifically "To keep all scheduled appts w/ DHHR for testing, job placements, interviews, referrals, etc."
- 3) On or about March 14, 2006, the Claimant was notified of a scheduled home visit via a WV WORKS Appointment Notice form (D-3). This notice states that the appointment is scheduled for April 6, 2006 between 12:30PM and 4:30PM and that the Claimant should notify his Worker no later than April 5, 2006 if he is unable to keep the appointment.
- 4) The Department submitted exhibit D-4 (case comments from 4/7/06) to show documentation that a home visit was attempted on April 6, 2006 and that a young male reported on the date of the visit that they (the Claimant and his wife) were not home but should return in about an hour.
- 5) The Claimants contend that they called the Department on the day of the scheduled appointment (4/6/06) to let their Worker know that they had to attend a medical appointment. This call, however, was placed subsequent to the date provided (4/5/06) to report that they could not keep their appointment. More importantly, the Claimants were not certain if they spoke to an individual or left a message when they called and they did not follow-up with their Worker.
- 6) The Claimant(s) acknowledged that they were notified of the Good Cause appointment scheduled on April 14, 2006 and that they failed to attend. As a result, an attempt at establishing Good Cause was not made and the Department's proposed sanction remained in place.
- 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.
1st Offense- 1/3 reduction in the check amount for 3 months.
2nd Offense- 2/3 reduction in the check amount for 3 months.
3rd Offense and all subsequent offenses-Ineligibility for cash assistance for 3 months or until compliance, whichever is later.

- 9) West Virgin 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 PRC, a sanction must be imposed unless the worker determines that good cause exists. For a 3rd Offense and all subsequent offenses, ineligibility for cash assistance for 3 months or until compliance, whichever is later.
- 3) The evidence reveals that the Claimant failed to attend a scheduled home visit appointment on April 6, 2006 and he failed to attend a Good Cause appointment on April 14, 2006. As a result, the Department has correctly proposed applying a 3rd level sanction to the Claimants' case. In accordance with existing policy, the sanction was delayed by a Fair Hearing request and will now begin the month following the decision. The 3rd Sanction will be effective July 1, 2006.

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 in applying a 3rd Sanction to your WV WORKS benefits. This Sanction will be effective July 1, 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16th Day of June 2006.

**Thomas E. Arnett
State Hearing Officer**