



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 8, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 15, 2006. Your hearing request was based on the Department of Health and Human Resources' action to reduce your benefits under the WV WORKS Program.

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 WV WORKS is based on current policy and regulations. Some of these regulations state as follows: when a member of the benefit group does not comply with requirements found on his PRC, a sanction must be imposed unless the worker determines that good cause exists. Sanctions are applied to WV Works cases in the form of check reductions and, for the 3rd or subsequent offense, termination of benefits. (Section 13.9 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that you did not comply with the requirements on your PRC and did not establish good cause for not doing so.

It is the decision of the State Hearing Officer to uphold the action of the Department to reduce your benefits.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Shelby Jennings, DHHR

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

_____,

Claimant,

v.

Action Number: 06-BOR-1625

**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 22, 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 June 15, 2006 on a timely appeal, filed April 10, 2006. The hearing record was left open until June 22, 2006 in order for the claimant to submit a doctor's statement and the Department a copy of a notification letter.

It should be noted here that the claimant's benefits have not been continued pending a hearing decision.

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.

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.

WV Works will expect and assist parents and caretaker-relatives in at-risk families to support their dependent children. Every parent who receives cash assistance has a responsibility to participate in an activity to help prepare for, obtain and maintain gainful employment. WV Works will promote the value and the capabilities of individuals.

The goals of WV Works are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

III. PARTICIPANTS:

_____, Claimant

Carol Groves, Family Support Supervisor, Department Hearing Representative
Shelby Jennings, Family Support Specialist

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department is correct in applying a sanction because an AG member did not comply with the terms of her Personal Responsibility Contract and did not show good cause for not doing so.

V. APPLICABLE POLICY:

Sections 1.25T, 13.9, and 13.10 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Form IG-BR-29 Hearing/Grievance Record Information
- D-2 Notification Letter dated 03/24/06
- D-3 Hearing Request
- D-4 Copy of sections 13.9 A through E of the West Virginia Income Maintenance Manual
- D-5 Copy of section 10.24C of the West Virginia Income Maintenance Manual
- D-6 Personal Responsibility Contract dated 02/21/06
- D-7 Personal Responsibility Contract dated 03/02/06
- D-8 Department's Summary
- D-9 Notification Letter dated 03/16/06

VII. FINDINGS OF FACT:

- 1) The claimant was a recipient of WV WORKS through 05/31/06.
- 2) The claimant signed and initialed the Self-Sufficiency Plan of the Personal Responsibility Contract on 03/02/06 with a specific assignment listed for Ms. _____ to complete 20 hours per week community service caring for her father and to provide a

doctor's statement that it was necessary for her to do this to prevent him from being placed in a nursing home.(D-6)

- 3) A home visit was completed on 03/02/06 and a Personal Responsibility Contract was completed with the same assignment. (D-7)
- 4) The doctor's statement was not provided to the caseworker.
- 5) A notification letter was sent dated 03/16/06 which reads in part: Your WV WORKS will decrease from \$226.00 to \$151.00 effective 04/01/06. Reason: A first sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).....This sanction will be applied due to the failure of _____ to meet the terms of the Personal Responsibility Contract by failing to complete an assignment. A good cause interview was scheduled for 03/23/06 at 11:00. (D-9)
- 6) The claimant failed to keep the good cause appointment and did not call to reschedule. Contact was not made with the claimant until 04/06/06 at which time she requested a fair hearing.
- 7) The sanction was applied with a notice dated 03/24/06. (D-2)
- 8) Testimony from the claimant revealed that she called to reschedule her appointment and her worker was not in the office. She got a letter in April stating her check was completely cut out. The claimant denied getting a letter in March about her case being closed. According to the claimant, the first sanction was about not keeping an appointment with Ms. Jennings. She and her daughter had the flu and she could not keep the appointment.
- 9) Testimony from the claimant revealed she had the doctor's statement at home but she had not provided the statement because her case was closed. The hearing record was left open in order for her to provide a copy to the State Hearing Officer by June 22, 2006. This statement was not received by the State Hearing Officer.
- 10) Section 1.25T of the West Virginia Income Maintenance Manual reads in part:

The Personal Responsibility Contract (PRC), form OFA-PRC-1, is negotiated contract between the adult or emancipated minor members of the WV WORKS AG and the Worker as the representative of the Department. There are 2 parts to the form and each serves a different purpose. Refusal or other failure, without good cause, to sign either part of the form results in ineligibility for the entire AG. Completion and signature of both parts of the form are required prior to approving the WV WORKS AG.

Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the AG. No sanction may be imposed for failing to adhere to any provision that is not specifically addressed on the PRC at the time the failure occurred.

PRC - Part 1

Part 1 of the PRC is the same for all clients. It states the purpose of the WV Works

Program and lists the client=s rights and responsibilities. Each adult and emancipated minor AG member must sign Part 1 of his own PRC. In addition, the worker must sign the form as the Department=s representative. The client=s signature indicates that he understands and accepts the responsibility inherent in the Program. The worker=s signature indicates that he has explained the client=s rights and responsibilities and the Department=s responsibilities to the client. It also indicates that the worker has addressed all of the client=s questions and concerns before requesting him to sign it.

PRC - Part 2

Part 2 of the PRC is specific to each individual and is the Self Sufficiency Plan. It lists the goals as well as the tasks necessary to accomplish the goals, including specific appointments, assignments, or activities for the adult/emancipated minor. In addition, Part 2, identifies the circumstances which impede attainment of the established goals and specifies the services needed to overcome the impediments.

The client must initial each change to the Self-Sufficiency Plan when it is made on the paper form. His initials indicate his agreement to the revisions.

The Self-Sufficiency Plan is a negotiated contract between the Department and the client. Even though it must be completed prior to the approval of the case, it is a working document and revisions are made when either the client or the Worker believes it is necessary. Frequent changes are expected as the client progresses toward his goal.

11) Section 13.9 of the West Virginia Income Maintenance Manual reads in part:

When a member of the benefit group does not comply with requirements found on his PRC, a sanction must be imposed unless the worker determines that good cause exists.

DEFINITION OF SANCTION

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

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

2nd Offense = 2/3 reduction in the check 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 check amount the client is currently eligible to receive, prior to recoupment; it is not applied to the check amount which has already been reduced by 1/3.

3rd Offense and all subsequent offenses = Ineligibility for cash assistance for 3 months or until compliance, whichever is later.

All benefit reductions due to imposition of a sanction require advance notice. 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.

12) Section 13.10 of the West Virginia Income Maintenance Manual reads in part:

If a parent or other caretaker relative included in the payment 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 requirements and/or adhere to his PRC requirements, the worker must determine the reason for such failure or refusal.

Failure or refusal without good cause results in imposition of a sanction. When the worker discovers the failure or refusal, a notice of adverse action must be issued.

NOTE: To avoid imposition of a sanction due to good cause, the good cause must be established during the advance notice period. Once a sanction has been imposed it cannot be stopped until the appropriate time has elapsed or the appropriate action is taken, whichever is later.

The client has good cause for failure to participate when:

- The parent or included non-parent caretaker quits employment or fails to participate in his assigned activity due to enrollment and full-time in school, training or an institution of higher learning. College is defined as a 2- or 4 year undergraduate degree program.
- S A single parent can prove that appropriate child care is unavailable for his child, age 6 or younger.
- S He is required to appear in court or for jury duty.
- S He is experiencing a family crisis such as:
 - ! Death of his spouse, parent, child or stepchild
 - ! A life-threatening illness of a spouse, parent or child requires the client=s immediate attention.
 - ! Domestic violence and/or the need to protect abused children makes participation impossible, dangerous or embarrassing and the client accepts a referral to Social Services or a Domestic Violence center for assistance.

- ! The minimum suitability standards for a specific activity are not met.
- ! Based on knowledge of the client and his life circumstances, the worker determines that the client has not met the requirement, but has complied to the best of his ability, understanding of the requirement, understanding of the sanction process and/or level of motivation. The worker has considerable discretion in imposing a sanction. The worker may determine that the requirement was inappropriate based upon additional assessment. In addition, the worker may determine that not applying a sanction in a particular situation provides more motivation for future participation than the imposition of a sanction.
- S A requirement of Social Services precludes participation for a specified period of time.
- S He refuses to accept surgery which would eliminate or significantly improve his condition, even if the refusal precludes participation.
- S He would be required to travel more than one hour each way to participate, unless it can be shown that local community standards exceed the one-hour limitation.

All good cause determinations must be recorded in RAPIDS. The recording must include the reason the worker did not or did impose a sanction.

VIII. CONCLUSIONS OF LAW:

- 1) Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the AG.
- 2) The claimant signed the self-sufficiency plan of the PRC dated March 2, 2006 agreeing to community service by caring for her father. She was to provide a doctor's statement for this activity.
- 3) The doctor's statement was not provided. The claimant did not keep the scheduled good cause appointment.
- 4) There was no credible testimony or evidence provided at the hearing that would change the Department's determination.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to apply a sanction for the failure of the claimant to adhere to her Personal Responsibility Contract.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of August, 2006.

**Margaret M. Mann
State Hearing Officer**