



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street West
Charleston, WV 25313**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

September 18, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 16, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to impose a 3rd Personal Responsibility Contract (PRC) sanction.

In arriving at a decision, the State Hearings 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 as follows: 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. (West Virginia Income Maintenance Manual Section 1.25 T PERSONAL RESPONSIBILITY CONTRACT (PRC)).

The information submitted at your hearing revealed: You failed to comply with the terms of your Personal Responsibility Contract.

It is the decision of the State Hearings Officer to uphold the proposal of the Department to impose the sanction.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Crystal Sutphin, FSS

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

_____,
Claimant,

v.

Action Number: 06-BOR-1985

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

Respondent.

DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on September 18, 2006 for Ms. _____. 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 16, 2006 on a timely appeal filed May 30, 2006.

It should be noted here that the Claimant's WV WORKS Benefits were continued during the fair hearing process. A pre-hearing conference was held between the parties prior to the fair hearing; and the Claimant did not have an Attorney working with her in this particular matter.

II. PROGRAM PURPOSE:

The Program entitled West Virginia 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

_____, Claimant's Mother

Crystal Sutphin, Family Support Specialist – [REDACTED] District DHHR

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is: Did the Claimant comply with the requirements of her Personal Responsibility Contract?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 1.25 T PERSONAL RESPONSIBILITY CONTRACT (PRC); and Chapter 13.9 (A) DEFINITION OF A SANCTION

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of Personal Responsibility Contract (PRC) Part 2 dated 02/24/06
- D-2 Copy of Personal Responsibility Contract (PRC) Part 1 dated 01/24/06
- D-3 Manual Section 13.9
- D-4 Manual Section 1.25 T
- D-5 Copy of Timesheets
- D-6 Case Comments
- D-7 Closure Letter dated 05/03/06

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

1) The Claimant has received 43 months of her 60 month lifetime limit of TANF benefits. This is the Claimant's second 3rd subsequent sanction since October 2005 for failure to participate in education/training programs. The Claimant has been enrolled in the following components: CWEP, EIP, Community Service, SPOKES/Excel, ABE/GED, and has failed to complete any of the assignments.

2) The Claimant signed her PRC on February 24, 2006, and agreed to enroll and attend GED classes on Tuesdays from 2:00 p. m. – 8:00 p. m. beginning February 28, 2006 (Exhibit D-1).

3) The Family Support Specialist discovered that the Claimant had not attended GED classes since March 21, 2006. A letter was sent to the Claimant on May 3, 2006, advising her that the WV WORKS case would close effective May 2006. The reason given for the proposed third level sanction was a failure to comply with her PRC. A Good Cause appointment was scheduled for May 15, 2006 at the Boone DHHR Office (Exhibit D-7).

4) The Claimant did not attend the Good Cause appointment to discuss the proposed sanction, and the sanction remained in effect.

5) The Claimant requested a hearing with continued benefits.

6) At the hearing, the Claimant used the lack of transportation as the reason for not attending GED classes. This is not credible testimony as (1) The PRC dated February 24, 2006 does not list transportation as a barrier to participation; and (2) the Family Support Specialist testified, without objection from the Claimant, that the Claimant lives less than two miles from the GED classes.

7) Chapter 13.9 of the WV Income Maintenance Manual (Exhibit D-3) states in part:

When a member of the AG does not comply with requirements on his PRC, a sanction must be imposed unless the Worker determines that good cause exists. 3rd offense and all subsequent offenses results in ineligibility for cash assistance for 3 months or until compliance, whichever is later.

8) Chapter 1.25 T of the WV Income Maintenance Manual (Exhibit D-4) states in part:

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.

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. 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.

The Claimant did not attend the scheduled Good Cause appointment to discuss compliance with her Personal Responsibility Contract.

2) 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. A 3rd Offense and All Subsequent Offenses = Ineligibility for cash assistance for 3 months or until compliance, whichever is later.

This is the Claimant's second 3rd subsequent sanction since October 2005 for failure to participate with Works Programs, failure to attend assigned activities, and failure to complete assignments.

3) The Claimant is not in compliance with the West Virginia Works Policy.

IX. DECISION:

It is the decision of this State Hearing Officer to UPHOLD the PROPOSAL of the Department to impose a West Virginia Works sanction for non compliance with the PRC.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of September, 2006

Ray B. Woods, Jr., M.L.S.
State Hearing Officer