



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2669 Park Avenue, Suite 100  
Huntington, WV 25705

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

September 6, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 5, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your assistance check under the WV Works Program due to imposition of a third-level 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 WV 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 three months or until compliance. (West Virginia Income Maintenance Manual Section 13.9)

The information which was submitted at the hearing revealed that you failed to cooperate with WV Works Program requirements by failing to complete Community Service hours for the month of April, 2006 and the Department correctly imposed a third-level sanction to your case.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate your assistance check under the WV Works Program due to imposition of a third-level sanction. The sanction will be effective October through December, 2006.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Steve Baisden, FSS, DHHR

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 06-BOR-2027**

**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 5, 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 September 5, 2006 on a timely appeal filed May 31, 2006. The hearing was originally scheduled for July 7, 2006, but was rescheduled at the request of the Claimant.

It should be noted that WV Works benefits have 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.

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  
Steve Baisden, FSS, DHHR

Presiding at the hearing was Thomas M. Smith, 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 correctly proposed termination of the Claimant's assistance check through the WV Works Program based on a third-level sanction.

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

West Virginia Income Maintenance Manual Sections 1.25, 13.9, 13.10, and 24.4

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

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

- #1 Copy of hearing summary.
- #2 Copy of Personal Responsibility Contract (PRC) dated 4-11-06 (2 pages).
- #3 Copy of case recordings 5-17-06 (2 pages).
- #4 Copy of notification letters dated 5-18-06 (6 pages).
- #5 Copy of case recording 5-26-06
- #6 Copy of hearing request 5-31-06.
- #7 Copy of form IG-BR-29.
- #8 Copy of hearing appointment letter.
- #9 Copy of WV Income Maintenance Manual Sections 1.25, 13.9, 24.4 (13 pages).

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

- 1) The Claimant signed a Personal Responsibility Contract (PRC) on 4-11-06 (Exhibit #2). Responsibilities to which the Claimant agreed include the following:

I understand that if I am a parent age 20 or above, I will have to get a job or be in a job activity, or both. I further understand that if I quit or refuse a job or job activity without good cause, I will be sanctioned.

I understand that I must develop a Self-Sufficiency Plan as part of my PRC. The final goal of my plan will be to become self-supporting. My plan will have time limits set for me to do

assignments/activities and to reach my goals. I must follow my plan or I will be sanctioned.

- 2) The claimant agreed on the PRC completed 4-11-06 to complete 30 hours per week in a Community Service activity beginning in the month of April, 2006 and to turn in time sheets by the 5<sup>th</sup> of each month (Exhibit #2).
- 3) The claimant did not submit a time sheet for the Community Service hours for the month of April, 2006 to the Department and the caseworker attempted to call her and left phone messages but the claimant did not return the phone calls (Exhibit #3).
- 4) A third-level sanction was imposed on 5-17-06 to terminate the assistance check and a notification letter was mailed to the claimant on 5-18-06 advising her of closure of the WV Works case and scheduling a good cause interview on 5-25-06 (Exhibit #4).
- 5) The claimant failed to keep the good cause interview on 5-25-06 and requested a hearing on 5-31-06.
- 6) The claimant testified that she did complete the Community Service hours for the month of April, 2006 and not submit a time sheet for the month of April, 2006 as her children were on Spring break from school and she had no transportation, that she did not receive the phone calls from Mr. [REDACTED] that her phone was messed up, that she did sign the PRC with good intentions, and that she was going to try to ride the school bus and go the library to do her hours.
- 7) Policy found in West Virginia Income Maintenance Manual Section 1.25T (D-5) states that the Personal Responsibility Contract (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the West Virginia Works assistance group and the worker.

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 benefit group. 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.

- 8) West Virginia Income Maintenance Manual Section 13.9 (D-5):

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.

Unless the client shows good cause for non-compliance, the sanction is imposed.

<sup>1st</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 Section 13.9 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 Section 13.10 sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract. It states:

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 requirement and/or adhere to his PRC requirements, the Worker must determine the reason for such failure or refusal.

Failure or refusal to comply, 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.

This section states that all good cause determinations must be recorded in RAPIDS. The recording must include the reason the Worker did or did not impose a sanction.

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

- 1) Policy states that 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. 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.
- 2) Evidence reveals that the Department properly imposed the third-level sanction to the Claimant's case as a result of failure to complete community service work for the month of April, 2006.

## **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to impose a third-level sanction to the Claimant's case and to terminate the WV Works assistance check.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 6th Day of September, 2006.**

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**Thomas M. Smith**  
**State Hearing Officer**