



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**2699 Park Avenue, Suite 100**  
**Huntington, WV 25704**

**Joe Manchin III**  
Governor

**Martha Yeager Walker**  
Secretary

December 7, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 6, 2006. Your hearing request was based on the Department of Health and Human Resources' action to reduce your WV Works assistance check effective August, 2006 due to a first 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 WV Works assistance check Program is based on current policy and regulations. Some of these regulations state as follows: When a member of the AG does not comply with requirements found on his PRC, a sanction must be imposed unless the Worker determines that good cause exists (WV Income Maintenance Manual Section 13.9).

The information which was submitted at your hearing revealed that you failed to attend the Excel class which you agreed to attend on the PRC and did not have good cause for such failure. .

It is the decision of the State Hearings Officer to uphold the action of the Department to reduce your WV Works assistance check effective August, 2006 due to a first sanction. .

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Charise Lindsey, Dept. Hearing Rep.

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

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

**v.**

**Action Number: 06-BOR-2622**

**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 December 6, 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 December 6, 2006 on a timely appeal, filed August 7, 2006. It should be noted that the hearing was originally scheduled for October 20, 2006, October 26, 2006, October 31, 2006, and November 28, 2006 but was rescheduled three (3) times at Department's request and finally at claimant's request.

It should be noted here that the claimant's benefits have been reduced 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:**

1. \_\_\_\_\_, Claimant.
2. Charise Lindsey, Dept. Hearing Rep.

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 took the correct action to reduce the WV Works assistance check effective August, 2006 due to a first sanction.

**V. APPLICABLE POLICY:**

1.25, 13.9, 24.4

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

**Department's Exhibits:**

- A. Copy of hearing summary.
- B. Copy of notification letter 7-14-06 (3 pages)
- C. Copy of doctor's statements.
- D. Copy of case comments (5 pages).
- E. Copy of Personal Responsibility Contract Part I.
- F. Copy of Personal Responsibility Contract Part II.
- G. Copy of WV Income Maintenance Manual Sections 1.25 and 13.9 (5 pages).

**Claimants' Exhibits:**

None.

**VII. FINDINGS OF FACT:**

- 1) The claimant completed a Personal Responsibility Contract (PRC) under the WV Works Program on 6-14-06 and 6-16-06 (Exhibits #E and #F)
- 2) The claimant agreed to attend excel class beginning on 6-26-06 for at least 20 hours per week as her work activity and signed the PRC Part II on 6-16-06 acknowledging her agreement to attend the class and her understanding that a penalty could be applied for failure to cooperate/participate with the agreement (Exhibit #F).

- 3) The caseworker (Ms. Lindsey) received verification on 6-26-06 that the claimant was not attending the excel class and conducted a home visit on 7-12-06 and the claimant informed her that she did not attend the excel class as she was trying to get a job at [REDACTED] and had been having pregnancy problems. The claimant provided a doctor statement (Exhibit #C) dated 7-10-06 which stated that she was having pregnancy problems and needed rest. The caseworker informed the claimant that she would have to provide a statement that stated she could not work.
- 4) A first sanction was imposed on 7-14-06 effective 8-1-06 through 10-31-06 with notification issued on 7-14-06 (Exhibit #B) and a good cause appointment scheduled for 7-21-06. The claimant did not keep the good cause appointment and the first sanction was imposed.
- 5) A hearing request was received on a second sanction on 8-10-06 and a pre-hearing conference was held on 8-18-06 at which time the second sanction was removed but the first sanction remained and the claimant requested that a hearing on the first sanction continue.
- 6) The claimant purported that she had a lot of pain at the time with her pregnancy, that when she told Ms. Lindsey she could work, she meant she could work if she had to work, that she gave Ms. Lindsey the doctor statement and Ms. Lindsey told her she needed another one and her doctor would not give her another one until she saw her and it took several weeks to see her as she has no transportation.
- 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.

<sup>2nd</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 first-level sanction to the claimant's case as a result of failure to attend the excel class. The claimant agreed to attend the class by signing the PRC on 6-16-06 and failed to do so. The claimant failed to attend the good cause appointment and did not establish good cause.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the action of the Department to reduce the WV Works assistance check effective August, 2006 due to a first sanction.

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

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 7th Day of December, 2006.**

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**Thomas M. Smith  
State Hearing Officer**