



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

December 4, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 29, 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 third 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 three 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 Section 13.9)

Information submitted at your hearing reveals that you failed to comply with the requirements of your PRC. Because you were unable to establish good cause for non-compliance, the Agency has correctly proposed that a third sanction be applied to your case.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to apply a third sanction to your West Virginia Works benefits.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Christine Murphy, FSS, DHHR

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

_____,
Claimant,

v.

Action Number: 06-BOR-3220

**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 4, 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 November 29, 2006 on a timely appeal filed October 30, 2006.

It should be noted that West Virginia Works benefits have continued pending a hearing decision.

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.

West Virginia 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
Christine Murphy, FSS, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 and services through the West Virginia Works Program based on application of a third-level sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 1.25, 13.9 and 13.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Personal Responsibility Contract
- D-2 Participant Time Sheet
- D-3 Notice of Decision dated October 19, 2006
- D-4 Hearing request
- D-5 Case recordings
- D-6 West Virginia Income Maintenance Manual Sections 1.25, 13.9 and 13.10

VII. FINDINGS OF FACT:

- 1) As a recipient of West Virginia Works benefits, the Claimant signed a Personal Responsibility Contract (PRC) on July 31, 2006 (D-1). The PRC includes specific assignments/activities the Claimant agreed to fulfill, including turning in Participant Time Sheets by the fifth day of each month.
- 2) The Family Support Specialist testified that the Claimant's September time sheet (D-2) was due by October 5, 2006, but was not received by the Department until October 13, 2006 as indicated by the date-stamp on the document. This action prompted the Family Support Specialist to propose that a third sanction be applied to the Claimant's case. The Family Support Specialist testified that the Claimant has been sanctioned seven (7) times while participating in West Virginia Works, however three (3) of those sanctions were removed because the Claimant established good cause.

- 3) On October 19, 2006, the Family Support Specialist sent the Claimant a letter which states, in part:

Action: Your WV Works will stop. You will not receive this benefit after October 2006.

Reason: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract.

A good cause appointment was scheduled for October 30, 2006, however the Claimant failed to attend. The Claimant had submitted a fair hearing request regarding the proposed sanction on October 25, 2006.

- 4) The Claimant, who is a single-parent and whose work activity is to attend college, testified that she was unaware that the good cause hearing had been scheduled. While she concurred that she had signed a PRC specifying the deadline for time sheets, she stated that she was unaware that submitting a time sheet late was a sanctionable offense. She testified that she had believed the deadline was established for the fifth of each month to make things easier for West Virginia Works workers and so that she could receive her gasoline reimbursements earlier. In addition, she testified that she has turned in time sheets late before and was never sanctioned. The Claimant stated that it takes two to three days for the college to return signed time sheets to her, and that she and her daughter had the stomach flu during the first part of October. She testified that she would have to quit college and obtain a job without her West Virginia Works check.
- 5) Policy found in Chapter 1.25, T of the West Virginia Income Maintenance Manual states that the PRC form (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 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.
- 6) West Virginia Income Maintenance Manual Section 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.

- 7) West Virginia Income Maintenance Manual Section 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.
- 8) 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. 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 attendance in school, training or an institution of higher learning. College is defined as a 2- or 4-year undergraduate degree program.
 - A single parent can prove that child care is unavailable for his child, age 6 or under.
 - He is required to appear in court or for jury duty.
 - He is experiencing a family crisis such as death or the life-threatening illness of a spouse, parent, child or stepchild, or domestic violence and/or the need to protect abused children makes participation impossible, dangerous or embarrassing and the client accepts a referral for assistance.
 - The minimum suitability standards for the 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. However, once a sanction has been imposed, it cannot be stopped, until the appropriate time has elapsed, or the appropriate action is taken.
 - A requirement of Social Services precludes participation for a specified period of time.
 - He refuses to accept surgery which would eliminate or significantly improve his condition, even if the refusal precludes participation.

- He would be required to travel more than one hour each way to participate.

VIII. CONCLUSIONS OF LAW:

- 1) Policy stipulates that when a member of a West Virginia Works Assistance Group does not comply with the requirements found on his or her PRC, a sanction must be imposed unless the worker determines that good cause exists. For a third offense and all subsequent offenses, the Assistance Group is ineligible for cash assistance for three (3) months or until compliance, whichever is later.
- 2) Evidence reveals that the Claimant failed to turn in her September Participant Time Sheet by October 5, 2006 as specified in her PRC. In accordance with policy, the Department proposed that a third sanction be applied to the Claimant's West Virginia Works case.
- 3) Whereas the Claimant was unable to establish good cause for failing to adhere to her PRC, the Agency has correctly proposed the application of a third sanction to her West Virginia Works benefits.

IX. DECISION:

Based on information presented during the hearing and applicable policy, it is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to apply a third sanction to the Claimant's West Virginia Works benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 4th Day of December 2006.

Pamela L. Hinzman
State Hearing Officer