



**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

January 23, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 13, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate 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 terms of your Personal Responsibility Contract and did not show good cause for not doing so.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to terminate your benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Michael Stanley, DHHR

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

_____,
Claimant,

Action Number: 05-BOR-6067

**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 October 13, 2005 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 October 13, 2005 on a timely appeal, filed June 27, 2005. It should be noted that this hearing was originally scheduled for August 31, 2005. It was rescheduled for September 15, 2005. It was rescheduled a second time at the request of the claimant to October 13, 2005.

It should be noted here that the claimant's benefits have 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

Patricia Beverly, Family Support Specialist

Michael Stanley, FSS, Department Hearing Representative

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 the claimant 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 Time Sheet for May, 2005

D-2 Time Sheet for June, 2005

D-3 (a) Personal Responsibility Contract dated 01/16/2001, (b) Personal Responsibility Contract dated 01/25/2002, (c) Personal Responsibility Contract dated 12/08/2003 and (d) Personal Responsibility Contract dated 05/05/2005

D-4 Department's Summary

D-5 Notification Letter dated 06/16/2005

VII. FINDINGS OF FACT:

- 1) The claimant was sent a letter dated 06/16/05 informing her that "Your WV WORKS will stop. You will not receive this benefit after June 2005. Reason: A third level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).....You and your family will be ineligible for a cash assistance check for 3 months or until you meet the terms of your Contract, whichever

is later. This sanction is being applied due to the failure of _____ to meet the terms of the Personal Responsibility Contract by failing to participate in education/training.” A good cause interview was scheduled for 06/23/05. (D-5)

- 2) Ms. _____ has been a WV WORKS recipient for several years. She is currently in her 45th month. The benefit group consists of the claimant and her 13 year old child. Mr. Stanley reviewed the claimant’s record, what benefits WV WORKS has provided over the years, and past sanctions. (D-4)
- 3) The claimant reapplied for WV WORKS on April 26, 2005. A Personal Responsibility Contract was signed 05/05/05 (D-3d). She was placed at SPOKES and was scheduled to begin 05/09/2005. The claimant signed the PRC agreeing to the above activity. The claimant agreed to attend classes 6 hours per day, 5 days per week. The caseworker called on 05/09/2005 and was informed the claimant had not shown up. A phone call was made to the claimant and she informed the caseworker she was out of town and she would start on 05/10/2005. On 05/10/2005 the claimant did not show. The claimant did show at SPOKES on 05/11/2005.
- 4) Testimony from Ms. Beverly revealed the claimant was required to attend SPOKES 30 hours per week. She had attended about 42.7 hours in May (D-1). She checked the June hours and found the claimant had missed several days. (D-2) The claimant came in for good cause on 06/24/05 and already had missed 11 days out of 17. Several of those days she had doctors excuses where she had taken other people to the doctor. On June 1 and 2 the claimant reported she did not go because she had no gas. Ms. Beverly stated the claimant would have just gotten her check.
- 5) Testimony from Ms. _____ revealed she started SPOKES 05/10/05. She was having trouble getting gas money. She did provide some doctor’s statements. She has been sick and has signed up for SSI. She was still trying to go to class but did not have the gas money. She did receive money for gas for May but it was not enough.
- 6) 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.

7) 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.

8) 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) The claimant signed the PRC 05/05/2005 agreeing to attend SPOKES classes 6 hours a day 5 days per week beginning 05/09/2005.
- 2) The claimant did not comply with terms of her PRC and did not show good cause for not doing so. There was no convincing testimony or evidence by the claimant to change the Department's determination.
- 3) 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.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to apply a sanction for failure of the claimant to adhere to the terms of her Personal Responsibility Contract. The action described in the notification letter dated June 16, 2005 will be taken.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 23rd Day of January, 2006.

**Margaret M. Mann
State Hearing Officer**