



**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

February 13, 2006

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

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 20, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce 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 3<sup>rd</sup> 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 an AG member who is no longer in the household did not comply with the terms of her 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 reduce your benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
\_\_\_\_\_, DHHR

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

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

**Action Number: 05-BOR-6360**

**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 20, 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 first convened on October 18, 2005 on a timely appeal, filed July 26, 2005. After the Department had presented its evidence and testimony, the claimant indicated he wanted to pursue legal representation. The hearing was continued in order for the claimant to do this. The claimant did not obtain legal representation and the hearing was reconvened on December 20, 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  
Angela Harvey, Family Support Specialist  
\_\_\_\_\_, Family Support Specialist  
\_\_\_\_\_, 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 an AG member 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 Notification Letter dated 07/15/05
- D-2 Hearing Request dated 07/26/05
- D-3 Form IG-BR-29 Hearing/Grievance Record Information
- D-4 Hearing Appointment Notice
- D-5 Time Sheet for 06/05
- D-6 Section 24.13 of the West Virginia Income Maintenance Manual
- D-7 PRC Update dated 04/26/05
- D-8 Case Comments
- D-9 Department's Summary

#### **Claimants Exhibits:**

- C-1 Doctor's Statement for \_\_\_\_\_ dated 09/10/04

## VII. FINDINGS OF FACT:

- 1) \_\_\_\_\_ and \_\_\_\_\_ have been TANF recipients for 14 months. Mr. \_\_\_\_\_ is exempt from an activity because MRT has determined him disabled. \_\_\_\_\_ is nineteen years old, so due to her age she is required to participate in an educational activity.
- 2) \_\_\_\_\_ updated her Personal Responsibility Contract on 04/26/05 agreeing to the following: GED 20 hours at \_\_\_\_\_ School, turn in time sheet by 5<sup>th</sup> each, report all changes. (D-7)
- 3) Time sheets are due by the 5<sup>th</sup> working day of the following month. Ms. \_\_\_\_\_ failed to turn her June time sheet in by the 5<sup>th</sup> of July. She was reminded at a home visit on 07/13/05 that her time sheet must be received by 07/15/05 or a sanction would be applied to her case. A sanction was applied for failure to turn in the time sheet by 07/15/05. This was the second sanction. A good cause hearing was scheduled for 07/21/05. Ms. \_\_\_\_\_ did not show for the good cause and a sanction was applied.
- 4) \_\_\_\_\_ was notified in a letter dated 07/15/05 that "A Personal Responsibility Contract (PRC) sanction has been applied to your cash assistance group effective 08/01/05. This is the second sanction applied to your cash assistance group and will continue for 3 months. This sanction is being applied due to the failure of \_\_\_\_\_ to comply with the terms of the Personal Responsibility Contract by turning in her timesheet 07/15/05." A good cause interview was scheduled for 07/21/05. (D-1)
- 5) The time sheet was received 07/20/05 which was after deadline and hours did not count toward federal participation rate. (D-5)
- 6) A hearing was requested on 07/26/05. (D-2)
- 7) \_\_\_\_\_ reported \_\_\_\_\_ out of the home on 08/02/05. It was explained to him that the sanction would still be in effect. \_\_\_\_\_ and the baby moved into a separate apartment. (D-8)
- 8) Mr. \_\_\_\_\_ read a letter from \_\_\_\_\_ into the record. (C-2) Ms. \_\_\_\_\_ stated she was late getting the time sheet in. She did not get the letter about the good cause appointment until the day after the appointment. They were away from their home for several days and could not get back.
- 9) Testimony from Mr. \_\_\_\_\_ revealed he is disabled. He does not understand how Ms. \_\_\_\_\_ was required to go to school and leave their son all day.
- 10) 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.

- 11) 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 3<sup>rd</sup> or subsequent offense, termination of benefits. The amount of the check reduction is a fixed amount and is determined as follows:

1<sup>st</sup> Offense = 1/3 reduction in the check amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months

2<sup>nd</sup> 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 2<sup>nd</sup> 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.

3<sup>rd</sup> 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.

12) 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.

- 13)    Section 13.9E of the West Virginia Income Maintenance Manual reads in part that WV WORKS sanctions are applied to the AG, not to the individual who causes the sanction. Therefore, the following information is used to determine the number of sanctions when the sanctioned AG separates into 2 or more AG's or when 1 or more member leaves the AG.

Each adult and emancipated minor included in the same WV WORKS AG is assigned one sanction for each time the case is sanctioned.

When an adult or emancipated minor leaves the home, he takes his assigned sanctions with him. Those adults and emancipated minors remaining in the home retain their assigned sanctions.

- 14) Section 24.13 of the West Virginia Income Maintenance Manual reads in part that under Federal Law, an educational activity is mandatory for parents under the age of 20 and does not have a high school diploma or equivalent. Under State Law, any WV WORKS recipient who must meet a federal requirement may elect to participate in any educational activity.

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

- 1) \_\_\_\_\_ updated her PRC 04/26/2005 agreeing to attend GED classes and to submit her time sheet by the 5<sup>th</sup> of the month.
- 2) \_\_\_\_\_ did not comply with terms of her PRC by not submitting her June time sheet timely. 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.
- 4) Policy is clear in that when an adult or emancipated minor leaves the home, he takes his assigned sanctions with him. Those adults and emancipated minors remaining in the home retain their assigned sanctions.
- 5) \_\_\_\_\_ and \_\_\_\_\_ were in the same AG. She has left the home. Mr. \_\_\_\_\_ retains the assigned sanction.

#### **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 \_\_\_\_\_ to adhere to the terms of her Personal Responsibility Contract. The action described in the notification letter dated July 15, 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 13th Day of February, 2006.**

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**Margaret M. Mann  
State Hearing Officer**