



**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**

April 17, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 7, 2006. 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 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 you did not comply with the requirements on your PRC and did not establish 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  
Judy B. Bell, DHHR

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

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

**Action Number: 05-BOR-7067**

**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 February 7, 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 February 7, 2006 on a timely appeal, filed November 22, 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

Louise Blaylock, 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 Personal Responsibility Contract dated 10/18/05
- D-2 SPOKES Student Time Sheet for November 2005
- D-3 [REDACTED] County SPOKES Comments/Updates
- D-4 Department's Summary
- D-5 Updated Self-Sufficiency Plan dated 11/30/05
- D-6 SPOKES Student Time Sheet December 2005
- D-7 Doctor's Statement received 01/04/06
- D-8 SPOKES Removal dated 12/13/05
- D-9 Section 24.4 & 13.9 of the West Virginia Income Maintenance Manual
- D-10 Notification Letter dated 11/18/05

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

- 1) On 10/18/05 the claimant was in the office to reapply for WV WORKS after being closed for three months due to a sanction for not attending SPOKES. She was reassigned for SPOKES as once sanction is served and the client reapplies, whatever they did not do must be done before case can be approved.

- 2) The claimant signed and initialed the Personal Responsibility Contract on 10/18/05. (D-1) She was scheduled to attend orientation Friday, 10/21/05. She did attend and case was approved.
- 3) The claimant attended daily in October 2005 but beginning 11/07/05 she stopped attending. The claimant did not contact the SPOKES instructor or her case worker with any explanation.
- 4) On November 18, 2005, the SPOKES instructor contacted the claimant's mother-in-law who was not sure why the claimant was not in class. The mother-in-law was to leave a note on the door. The SPOKES instructor called the first phone number listed she had for the claimant and was told \_\_\_\_\_'s mother got robbed and beat up at \_\_\_\_\_ Department Store about 1 – 2 weeks ago. Thought the claimant was taking her mother back and forth to work. (D-3)
- 5) A notification letter was sent dated 11/18/05 which reads in part: Your WV WORKS will stop. You will not receive this benefit after November 2005. Reason: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).....The sanction will be applied due to the failure of \_\_\_\_\_ to meet the terms of the Personal Responsibility Contract by failing to attend an assigned activity. A good cause interview was scheduled for 11/30/05 at 1:30. (D-10)
- 6) On 11/22/05 the claimant left a hearing request at the front desk. States she was out of class as she was in ICU with a relative. No medical was provided. The case worker attempted to make a home visit. No one was home. On 11/30/05 the claimant left a voice mail message stating same thing as above. She left no phone number to call her back at.
- 7) On 11/30/05 the claimant was in the office to complete a full scale review. The case worker informed the claimant she had received the hearing request but could not lift the sanction without a doctor's statement of the relative she was staying in ICU with. The claimant informed the worker that it was not an actual relative, but the lady was like a mother to her.
- 8) The claimant wanted to reenroll in SPOKES. The claimant signed the PRC on 11/30/05 agreeing to do this. (D-5) She began attending 12/02/05 but stopped attending 12/07/05. She was removed from SPOKES class once again for non-attendance. (D-8)
- 9) Testimony from the claimant revealed that during the middle of November she was in \_\_\_\_\_ with her sister-in-law's mother. She was in ICU and on life support. When her husband went with her, she was watching her kids. She was there for a good two weeks. She could not get a doctor's excuse as she was not her mother. After she received the sanction letter, her dad has been sick for about a month. He has been in the \_\_\_\_\_ hospital and she has been going back and forth between \_\_\_\_\_
- 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.

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

- 1) 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.
- 2) The claimant signed the PRC on 10/18/05 agreeing attend SPOKES classes as assigned beginning 10/21/05. The claimant did not adhere to the PRC and a closure notice was

issued 11/18/05 with a good cause appointment scheduled for 11/30/05. Good cause was not established.

- 3) There was no credible testimony or evidence provided at the hearing that would change the Department's determination.

**IX. DECISION:**

It is the finding of the State Hearing Officer that the Department is upheld in the decision to apply a sanction for the failure of the claimant to adhere to her Personal Responsibility Contract. The action described in the notification letter dated November 18, 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 17th Day of April, 2006.**

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**Margaret M. Mann**  
**State Hearing Officer**