



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 3, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 2, 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 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 3 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 § 13.9)

The information submitted at your hearing reveals that you failed to comply with the requirements on your PRC. Because you were unable to establish good cause for non-compliance, the Agency has correctly proposed that a 3rd 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 Sanction in your WV WORKS case. A 3rd Sanction will be applied to your WV WORKS case effective May 1, 2006.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Rebecca Stephens, FSS, DHHR

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

_____,
Claimant,

Action Number: 06-BOR-789

**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 April 3, 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 March 2, 2006 on a timely appeal, filed January 6, 2006.

It should be noted that WV WORKS benefits have continued pending the hearing.

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:

_____, Claimant
_____, Claimant's Roommate
Rebecca Stephens, FSS, DHHR

Presiding at the Hearing was Thomas E. Arnett, 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 their proposal to terminate the Claimant's benefits and services through the WV WORKS Program based on a 3rd Sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.25 and 9.21

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Exhibit -1 Entitled PRC Process includes PRC signed by the Claimant on 11/29/05.
Exhibit -2 CWEP Contract
Exhibit -3 Case Comments and medical documentation.
Exhibit -4 Good Cause Appointment & WVIMM 13.10
Exhibit -5 Customer files for Hearing – Includes Notice of Decision dated 12/9/05.
Exhibit -6 Time sheets & Denial from SSA

VII. FINDINGS OF FACT:

- 1) On or about December 9, 2005, the Claimant was notified via a Notice of Decision that the Department was applying a 3rd Sanction to her West Virginia Works case. The notice (exhibit -5) indicates that the Claimant's WV WORKS benefits will stop effective December 2005 and that a third-level sanction is being applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).
- 2) The Department submitted exhibit-1 show that the Claimant signed her PRC on November 29, 2005 agreeing to obtain training in a CWEP Placement. According to the PRC, the CWEP placement agreement required the Claimant to begin working at the armory 30 hours per week beginning December 1, 2005 at 9:00 a.m. The date and time of the CWEP placement is also confirmed in exhibit -2, CWEP Individual Participation Agreement, which is also signed by the Claimant.

- 3) On December 8, 2005, the Department received verification that the Claimant was not participating in her CWEP assignment. The Department subsequently sent the Notice of Decision on December 9, 2005 and a Good Cause appointment was scheduled for December 20, 2005.
- 4) On December 15, 2005, the Claimant and her roommate (_____) came to the office with a note from _____'s physician indicating that "It would be of help if the above named person could be of assistance to _____ approx 130hrs a month." The Department evaluated the medical documentation and determined that this document fails to establish good cause and it does not exempt the Claimant from participation in CWEP Program.

The Claimant also provided medical documentation where she had been to the doctor, but this documentation fails to exempt the Claimant from participation in CWEP or establish good cause for failing to attend the December 1, 2005 CWEP appointment.

- 5) On December 20, 2005, the Claimant attended the Good Cause appointment. The Claimant again cited the physician's notes that suggest she needs to remain home with _____, however, the Department cited WVIMM Chapter 13.10 and stated that an individual can only qualify for Good Cause if they are taking care of an ill spouse, parent or child. Because the Claimant's roommate does not meet any of those criteria, the Department has correctly recommended that the 3rd Sanction be applied to the Claimant's WV WORKS case.
- 6) Policy found in Chapter 1.25, T, provides that the PRC form (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the WV WORKS AG 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.
- 7) West Virginia Income Maintenance Manual ' 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.
- 8) West Virgin Income Maintenance Manual ' 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.
- 9) West Virginia Income Maintenance Manual ' 13.10 sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that 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.
- 2) 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. For a 3rd Offense and all subsequent offenses, ineligibility for cash assistance for 3 months or until compliance, whichever is later.
- 3) The evidence reveals that the Claimant failed to attend a CWEP placement as agreed on the November 29, 2005 PRC. In accordance with policy, the Department proposed that a sanction be applied to the Claimant's WV WORKS case.
- 4) Whereas the Claimant was unable to establish good cause for failing to adhere to her PRC, the Agency has correctly proposed applying a 3rd Sanction to her WV WORKS case.

IX. DECISION:

After reviewing the information presented during the hearing, and the applicable policy and regulations, I am ruling to **uphold** the proposal of the Agency in applying a 3rd Sanction to your WV WORKS benefits. This Sanction will be effective May 1, 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd Day of April 2006.

**Thomas E. Arnett
State Hearing Officer**