



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
Post Office Box 1736  
Romney, WV 26757

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

October 1, 2007

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 12, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to apply a second sanction to your WV Works case.

In arriving at a decision, the State Hearings 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 Cash Assistance, WV Works, is based on current policy and regulations. Some of these regulations state in part: Policy section §1.25, 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.

The information, which was submitted at your hearing, did not contain a PRC document or testimony of the provisions included on the PRC.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to impose a sanction to your WV Works case for non-cooperation.

Sincerely,

Sharon K. Yoho  
State Hearing Officer  
Member, State Board of Review

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

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-1720**

**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 September 12, 2007 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 originally scheduled for August 1, 2007, rescheduled for August 20, 2007 and then for September 12, 2007. This fair hearing was convened on September 12, 2007 on a timely appeal, filed July 10, 2007.

**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

Pam Everly, DHHR Family Support Worker

Presiding at the Hearing was Sharon K. Yoho, 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 Agency was correct in their action to impose a sanction against your WV Works, cash assistance case.

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Policy § 1.25, 2.17, 13.9

### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

#### **Department's Exhibits:**

- D-1 Appointment notice dated May 18, 2007
- D-2 Notification of proposed reduction and scheduled Good Cause interview dated June 11, 2007
- D-3 US Postal notice of July 3, 2007 regarding mail left in PO Box
- D-4 WV Income Maintenance Manual Policy §2.17

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

- 1) The claimant had been residing in a homeless shelter on May 10, 2007 when she called the Department to report that she had found an apartment on [REDACTED]. On May 11, 2007, she appeared at the Department to report that she needed her mailing address to be changed to the [REDACTED] address.
- 2) On May 17, 2007 the claimant called the Department to ask that her mailing address remain as the previous PO Box since she did not have a key to her [REDACTED] mailbox yet.
- 3) On May 18, her caseworker mailed an appointment letter to the PO Box. She did not keep the appointment and therefore; the worker mailed a letter on June 5, 2007 advising that a sanction would be imposed for the failure to comply with the requirements of the Personal Responsibility Contract by not keeping the appointment. This notice advised of an appointment time to come in to reconcile this action by proving good cause for not showing for the scheduled appointment.

- 4) The claimant did not keep her reconciliation appointment. The Department imposed a sanction to her WV Works benefit effective for July 2007.
- 5) The claimant reported to the Postal Service in the month of June that she wanted her mail to be forwarded to her new address on [REDACTED]. She had not returned to her PO Box after May 17, 2007 to retrieve her mail. She also assumed that when she requested her mail to be forwarded that the Postal Service would get her mail out of her PO Box and send it on to her [REDACTED] address.
- 6) On July 3, 2007 after realizing her WV Works benefit had decreased, she contacted the Department and discovered that letters had been sent to her PO Box. She went to the Post Office and retrieved her mail that had accumulated in her box. She brought this mail, which included the two letters from the Department to the DHHR office. She also brought a note from a postal worker (DHS-3) to the office. This note advised that the stack of mail was found in her PO Box on July 3, 2007. The claimant talked with her caseworker and the Family Support Supervisor who advised that the sanction would stay in place.
- 7) The claimant issued a verbal request for a hearing on July 10, 2007. Benefits were not continued, as this request was not made within 13 days of the June 5 notice of reduction in benefits.
- 8) The Department presented only policy §2.17 regarding reporting requirements for WV Works recipients which was not pertinent to the issue of the hearing. No Personal Responsibility Contract was offered as testimony. No policy regarding WV Works Sanctions was provided as evidence and no policy regarding good cause for non-cooperation was offered.
- 9) **WV Income Maintenance Manual § 13.9A:**  
Sanctions are applied to WV WORKS cases in the form of check reductions and, for the third 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 = Ineligibility for cash assistance for 3 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.

10) **WV Income Maintenance Manual § 1.25:**

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.

11) **WV Income Maintenance Manual § 2.17:**

What Must be Reported

All changes in income, assets, household composition and other circumstances must be reported.

Timely Reporting

For WV WORKS case, all changes in a client's circumstances must be reported immediately. In addition, new earned income must be reported within 10 days of the date new employment begins to avoid certain penalties.

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

- 1) Policy is clear in §2.17, provided by the Department, that the claimant had obligations to report changes in her circumstances however, her sanction was not imposed for her failure to report changes in her circumstances. The notice of sanction addresses her failure to keep an appointment and failing to comply with requirements of her Personal Responsibility Contract (PRC).
- 2) Due to the failure of the Department to present evidence of provisions addressed on the PRC, the claimant's failure to comply with her PRC requirements was not proven at this hearing. Policy §1.25 provides that no sanction may be imposed for failing to adhere to any provision that is not **specifically** (emphasis added) addressed on the PRC. The claimant did show lack of responsibility in not obtaining her mail from her PO Box on a regular basis however; this responsibility may or may not have been specifically addressed on her PRC. This Hearings Officer has no other option but to reverse the Department's actions to impose the sanction.

### **IX. DECISION:**

It is the decision of this Hearing Officer that the Department failed to prove that this claimant failed to meet the terms of the Personal Responsibility Contract. I **reverse** the Department's actions to impose a sanction against the claimant's cash assistance effective July 1, 2007.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 1st Day of October 2007.**

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**Sharon K. Yoho**  
**State Hearing Officer**