



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 18, 2007

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 25, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to apply a third sanction to your WV Works case, which terminated your cash benefits.

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: 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.

The information, which was submitted at your hearing, revealed that you failed without cause to comply with your PRC requirements.

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

Sincerely,

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

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

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-1831**

**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 25, 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. The hearing was convened on September 25, 2007 on a timely appeal, filed August 3, 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

\_\_\_\_\_, claimant's mother

Alice Kayrous, Family Support Specialist

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 proposed action to terminate your cash assistance due to application of a third sanction against your WV Works, case.

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

West Virginia Income Maintenance Manual Policy § 1.25 T ,13.9 and 24.3

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

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

- D-1 Notice of proposed termination dated July 9, 2007
- D-2 WV Works Personal Responsibility Contract (PRC) dated March 9, 2007
- D-3 WV Works Personal Responsibility Contract (PRC) dated June 21, 2007
- D-4 WV Works Personal Responsibility Contract (PRC) dated May 12, 2006
- D-5 Participant Time Sheet for month of June 2007
- D-6 WV Income Maintenance policy §23.3
- D-7 WV Income Maintenance policy §23.4

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

- 1) The claimant was an active recipient of WV Works cash assistance in March 2007 when she entered into a Personal Responsibility Contract, (PRC) Exhibit D-2, which stated that she was to maintain a minimum of 20 hours per week at [REDACTED] beginning with March 5, 2007.
- 2) The March 2007 PRC was updated on June 21, 2007. The claimant's vocational training at the [REDACTED] was ending in June except for one class. This updated PRC included the responsibility to maintain 20 hours weekly at community service (CS) beginning with June 1, 2007 and to report to [REDACTED] to meet with a manager that day, June 21, 2007. This PRC was signed by the claimant on June 21, 2007.

- 3) June time sheets were provided to the Family Support Specialist from the [REDACTED] and from [REDACTED] Exhibit D-5. The [REDACTED] time sheet showed that she attended twelve hours the week of June 4, twelve hours the week of June 11 and ten hours the week of June 18. The June time sheet from [REDACTED] shows five hours community service hours worked on June 25, and six hours worked on June 29. The average participation hours per week were 11 hours for June.
- 4) On July 9, 2007, the claimant's worker sent out a notice to apply a third sanction to the claimant's case for not complying with the PRC. She was not maintaining 20 hours weekly at community service. She had only worked eleven hours at [REDACTED] on the last week of June. During the first three weeks in June, she was not maintaining 20 hours per week at the [REDACTED] which was a part of the PRC completed in March 2007. The notice advised the claimant that the Department wanted to resolve the issue and determine if she had good cause for not meeting the terms of her contract. It advised of a good cause appointment scheduled for July 23, 2007. The claimant did not keep this appointment. She instead, asked for this hearing.
- 5) The claimant testified that she had two job interviews on the 10<sup>th</sup> of June so she could not go to the [REDACTED] on that day. One of those interviews was negotiated with her worker and can be counted as hours of participation. However would not be enough to rectify the non-compliance.
- 6) The claimant testified that her worker told her to go to [REDACTED] for interviewing classes in June and she went and found out that there were no classes. She then just kept going to her [REDACTED] class. She said she tried to go back to [REDACTED] but they told her that she was not suppose to be there since she was then to be going to [REDACTED] for her hours.
- 7) The claimant then testified that she went to [REDACTED] every day in June. Her mother testified that she took her to the [REDACTED] every day in June and picked her back up. The hearing record was held open until October 2 to allow time for the claimant to provide proof that she participated additional hours in June. No evidence was provided.
- 8) The Family Support Specialist testified that the claimant was not referred to [REDACTED] until the month of July for orientation. They day that the claimant went to [REDACTED] there was no orientation being held. The sanction was a result of lack of participation hours in the month of June and not July.
- 9) **Policy found in Chapter 1.25, T of the West Virginia Income Maintenance Manual** states that the PRC form (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the West Virginia Works Assistance Group 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.

- 10) **West Virginia Income Maintenance Manual Section 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.
- 11) **WV Income Maintenance Manual § 13.9A:**  
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 = 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.
- 12) **WV Income Maintenance Manual § 13.9B:**  
When an additional offense for the same or a different requirement occurs during a sanction period, the next level of sanction is imposed, after proper notification. The client must also be given the opportunity to establish good cause, regardless of the length of time remaining for the sanction that is already in effect.
- 13) **WV Income Maintenance Manual § 13.9C:**  
The sanction period begins the month after expiration of the advance notice period. After the 2<sup>nd</sup> sanction has been imposed, the Worker must make a home visit. When the 3<sup>rd</sup> sanction occurs prior to the home visit, the imposition of the 3<sup>rd</sup> sanction must be delayed until the home visit is completed.
- 14) **WV Income Maintenance Manual § 24.3:**  
The minimum requirements for each group are found below.  
a. A single Work-Eligible parent with a child under age 6 meets the work participation requirement by participating an average of 20 hours/week. The parent may be required to participate more than 20 hours, or may volunteer to participate more than 20 hours, but no sanction may be imposed as long as the average 20 hours/week level is met.

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

- 1) Policy provides that sanctions be imposed when the client does not comply with requirements outlined in the PRC without good cause. It is clear that this claimant was aware of her obligation to maintain 20 hours of participation weekly and good cause was not demonstrated.
- 2) The claimant's PRC dated March 2007 was clear that she was to maintain 20 hours per week at the [REDACTED]. In June when she only had one class left to finish her schooling, she did not take action to re-negotiate her PRC to obtain supplemental hours to maintain 20 hours per week. On June 21, 2007, she and her worker did re-negotiate her PRC. One of her requirements was to report to the [REDACTED] on that day. Another requirement listed on this PRC was to maintain a minimum of 20 weekly hours at community service. The [REDACTED] time sheet shows that she did not work there in the month of June except for June 25 and June 29 a total of eleven hours that week. It appears that she did not report to the [REDACTED] on June 21. She clearly did not comply with the June 21, 2007 signed PRC as the following week she failed to put in 20 hours of community service.
- 3) Testimony given by this claimant was contradictory. She first stated she did not go to the [REDACTED] because of job interviews then because of another assignment. She then testified that she went to the [REDACTED] every day in June. She testified that she had an interview on June 10. This is questionable because June 10, 2007 was on a Sunday. This Hearings Officer did not find the claimant to be a credible witness and therefore has relied upon written evidence in this decision.
- 4) It is clear that the claimant did not prove good cause for her non-compliance and therefore the third sanction and subsequent termination of cash assistance is justified.

### **IX. DECISION:**

It is the decision of this Hearing Officer that the Department was correct in their imposition of the third sanction and termination of cash benefits. This Hearing Officer upholds their action.

### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 18th Day of October 2007.**

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**Sharon K. Yoho  
State Hearing Officer**