



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 26, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 15, 2007. 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 the application of a fifth 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 fails to 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 three months or until compliance, whichever is later. No sanction may be imposed for failing to adhere to any provision that was not specifically addressed on the PRC at the time the failure occurred. The Hearing Officer must render a decision based solely on evidence provided during the hearing. (West Virginia Income Maintenance Manual Sections 1.25 and 13.9, WVDHHR Common Chapters Section 780, D)

Information submitted at your hearing fails to demonstrate that you were non-compliant with a requirement that was specifically listed on your Personal Responsibility Contract.

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to apply a fifth sanction to your West Virginia Works case.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Teresa Dodd, FSS, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-2157

**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 November 26, 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 convened on November 15, 2007 on a timely appeal filed September 20, 2007

It should be noted that the Claimant had requested continued benefits pending a hearing decision, but her case has now closed due to employment income.

II. PROGRAM PURPOSE:

The program entitled West Virginia 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
Teresa Dodd, Family Support Specialist, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 its proposal to terminate the Claimant's benefits and services through the West Virginia Works Program based on application of a fifth sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 1.25 and 13.9
West Virginia DHHR Common Chapters Manual Section 780, D

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing summary
- D-2 West Virginia Works Personal Responsibility Contract signed September 27, 2007
- D-3 Employment verification form

VII. FINDINGS OF FACT:

- 1) The Family Support Specialist testified that the Claimant was enrolled in a work program on August 7, 2007 in conjunction with her West Virginia Works benefits. At that time, the Claimant agreed to work as a volunteer for _____ Church in _____. The worker testified that it was agreed the Claimant would complete the work activity and her husband would provide care for their children. The Claimant was required to work 29 hours per week, with credit for 30 hours of her CORE activity. In addition, the Claimant agreed to complete five hours of GED classes when the classes resumed at the beginning of the academic year. The Family Support Specialist provided a Personal Responsibility Contract signed by the Claimant on September 27, 2007 (D-2) indicating that the Claimant was to attend SPOKES class, but no Personal Responsibility Contract was provided to verify the Claimant's August 2007 volunteer work agreement at _____ Church or her agreement to attend GED classes.
- 2) On September 7, 2007, the Family Support Specialist visited the Claimant's residence for a mandatory 45-day home visit. The worker testified that she reviewed the status of the

Claimant's case and indicated that the Claimant had received four sanctions. The worker testified that she informed the Claimant she would receive a fifth sanction if she did not complete her required hours of work activity in September 2007. At that time, the Claimant told the Family Support Specialist that she had not completed her work hours for that week because she had been moving to a different residence. The worker testified that she told the Claimant she could have completed her move on the weekend and stressed the importance of working the required hours. The Claimant responded that she had to care for the children so her husband could move furniture.

- 3) On September 13, 2007, the worker visited _____ Church and the GED class. She learned that the Claimant had not completed any of her required hours in September and imposed a fifth sanction on the Claimant's case. A good cause appointment was set for September 20, 2007. The Claimant attempted to establish good cause, indicating that her vehicle was inoperable and that she had no telephone with which to contact the worker. In addition, she indicated that another individual was supposed to give her a ride to the work activity and failed to do so. The Claimant testified that her move was completed on or about September 6, 2007. She stated that she could not have moved during the weekend because she was using her mother-in-law's vehicle to complete the move and it was only available to her on the weekend.
- 4) Policy found in West Virginia Income Maintenance Manual Section 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 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.

- 5) West Virginia Income Maintenance Manual Section 1.25, T:

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.

- 6) 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.

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.

7) WVDHHR Common Chapters Manual Section 780, D states:

The State Hearing Officer shall weigh the evidence and testimony presented and render a decision based solely on proper evidence given at the hearing.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when a member of the West Virginia Works benefit group fails to comply with the requirements found on his or her Personal Responsibility Contract, a sanction must be imposed unless the worker determines that good cause exists. The 3rd offense and all subsequent offenses result in ineligibility for cash assistance for three months or until compliance, whichever is later. No sanction can be imposed for failing to adhere to a provision which is not specifically addressed on the Personal Responsibility Contract. Furthermore, WVDHHR Common Chapters Manual dictates that the State Hearing Officer must base a decision solely on evidence provided during the hearing.
- 2) While the Claimant did not dispute her incompleteness of work hours and failure to attend GED classes in September 2007, no evidence was provided by the Department to verify that these requirements were specifically identified on a Personal Responsibility Contract. Therefore, the Hearing Officer cannot determine that the sanction was appropriately applied.

IX. DECISION:

The Department's proposal to apply a fifth sanction to the Claimant's West Virginia Works case is **reversed** due to insufficient evidence of non-compliance with a Personal Responsibility Contract.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 26th Day of November 2007.

**Pamela L. Hinzman
State Hearing Officer**