



**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**

November 14, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 25, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to apply a third-level sanction to your WV Works case.

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 Program is based on current policy and regulations. Some of these regulations state in part: Sanctions are applied to WV WORKS cases in the form of check reductions and, for the third or subsequent offense, termination of benefi_____. (West Virginia Income Maintenance Manual § 13.9)

The information, which was submitted at your hearing, revealed that a member of the Assistance Group did not comply with terms on the 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 impose a third-level sanction to your WV Works case for non-cooperation.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

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

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

_____,

Claimant,

v.

Action Number: 07-BOR-2188

**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 October 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. This fair hearing was convened on October 25, 2007 on a timely appeal, filed September 19, 2007.

II. PROGRAM PURPOSE:

The Program entitled WV Works is set up cooperatively between the Federal and State government_____ 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. PARTICIPAN_____:

_____, Claimant

Sharon Taylor, Family Support Specialist, 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 to be decided is whether the Department was correct in their proposal to impose a third-level sanction against the Claimant's WV Works case.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 1.25, 13.9A & 13.9E

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibi_____:

D-1 Appointment notice dated October 2, 2007

D-2 Department's Summary

D-3 Record of Information

D-4 Form IG-BR-29 Hearing/Grievance Record Information

D-5 Termination Notice & Good Cause Appointment Notice dated 09/05/2007

D-6 PRC & CWEP Contract

D-7 WV Income Maintenance Manual Policy §13.9 & §24.4

Claimant's Exhibit:

C-1 Appeal: Denial of Petition for Emergency Protective Order/TEPO dated 09/10/2007

VII. FINDINGS OF FACT:

- 1) A home visit was completed on 05/23/2007 with _____ & _____. At that time, the case worker discussed with them about an upcoming appointment on 05/24/2007 to be assigned an activity. _____ & _____ needed to decide who would be placed in this activity.
- 2) On 05/24/2007, _____ came into the office for the appointment. She stated that she would do the work activity and _____ could stay home and care for the children. She was assigned to CWEP at _____ School for 176 hours per month. The Claimant was given the referral, the PRC was updated, and the CWEP contract was signed. The Claimant was to start 06/01/2007. (Exhibit D-6)

- 3) On 06/27/2007, the CWEP sponsor called, reporting that _____ only worked 1 hour the first day and had not returned. A good cause appointment notice was mailed. The Claimant came in on 07/10/2007. Her father had died, the sanction was lifted, and she was to return to CWEP 07/23/2007. The worker called on 07/23/2007 and _____ restarted CWEP that day.
- 4) On 08/10/2007, the sponsor called to report _____ worked Monday and Tuesday and had not been back. A good cause appointment was made for 08/24/2007 At 11:00 am. On 08/21/2007 both _____ & _____ came in for review. _____ stated she had a lot of doctors appointments _____ and an appointment with HUD in August. They stated they wanted to split the CWEP hours. _____ was assigned to _____ School for 15 hours a week and _____ was assigned to town of _____ for 20 hours per week. Both PRCs were updated and signed, new referrals given, and CWEP contract _____ signed and dated. (Exhibit D-6) _____ was to take referral to town of _____ and start 09/04/2007. The worker lifted the sanction that had been applied. She explained to the client _____ that they cannot miss one hour or another sanction will be applied, as two have been lifted. She explained to _____ that he needed to take the referral in the next couple of days as he needed to start on 09/04/2007. On 08/29/2007, the case worker talked with Mr. _____ at the town of _____. He had not seen _____. On 09/04/2007, the case worker contacted the town of _____ again and _____ had not been seen. A good cause appointment was scheduled for 09/18/2007. On 09/06/2007, the Claimant called and inquired about the good cause appointment. It was explained that _____ was suppose to go to the town of _____ and obtain a start date for 09/04/2007. He did not go until 09/05/2007 and will not start until 09/10/2007. Due to having a start date of 09/04/2007, a sanction was applied as he did not go as he was suppose to and start when he was suppose to. The case worker told her to keep the good cause appointment and will check if both had worked their hours at that time. _____ never started CWEP.
- 5) On 09/13/2007, the Claimant called and wanted _____ removed from the case. She stated he had left the home. It was explained to her that when a sanctioned person leaves the home, sanction stays in the case. A hearing was requested 09/20/2007 and benefits _____ were restored.
- 6) A letter was sent to the Claimant dated 09/05/2007 which reads in part: Your WV Works will stop. You will not receive this benefit after September 2007. Reason: This sanction is being 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 appointment was scheduled for 09/18/2007.
- 7) Testimony from the Claimant revealed that she feels she and her children should not be punished for something _____ failed to do. On 09/10/2007, the Claimant filed a petition in magistrate court for an Emergency Protective Order. The reason for the request was "causing emotional distress won't work won't help with kids will not leave my house when I ask him. Causing problems with DHHR." The petition was denied. (Exhibit C-1) The Claimant stated _____ left the home on 09/10/2007.

- 8) **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 benefi_____. The amount of the check reduction is a fixed amount and is determined as follows:
1st Offense = 1/3 reduction in the check amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months
2nd 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 2nd 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.
3rd 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.
- 9) **WV Income Maintenance Manual § 1.25:**
Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, resul_____ 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.
- 10) **WV Income Maintenance Manual § 13.9E:**
WV WORKS sanctions are applied to all Work-Eligible members of a WV WORKS case, not only to the individual who causes the sanction. Therefore, the following information is used to determine the number of sanctions when the sanctioned WV WORKS case separates into 2 or more cases or when 1 or more household member leaves the case.
- Each adult and emancipated minor included in the same WV WORKS AG, and each non-recipient Work-Eligible Individual, is assigned one sanction for each time the case is sanctioned.
- When an adult or emancipated minor leaves the home, he takes his assigned sanctions with him. Those adul_____ and emancipated minors remaining in the home retain their assigned sanctions.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in §1.25 that failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, resul_____ in imposition of a sanction against the AG.
- 2) On 08/21/2007, a member of the AG agreed to work CWEP 20 hours per week for the Town of [REDACTED] The start date for this assignment was 09/04/2007. Testimony

at the hearing revealed that this AG member never started CWEP.

- 3) A letter was mailed informing the household of the proposed sanction 09/05/2007. Good cause was not established. The sanctioned individual left the home 09/10/2007.
- 4) Policy in §13.9E specifies that when an adult or emancipated minor leaves the home, he takes his assigned sanctions with him. Those adul_____ and emancipated minors remaining in the home retain their assigned sanctions.
- 5) The sanction will be imposed.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to apply a third-level sanction for the failure of an AG member to adhere to his Personal Responsibility Contract. The action described in the notification letter dated September 5, 2007 will be taken.

X. RIG_____ OF APPEAL:

See Attachment

XI. ATTACHMEN_____:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 14th Day of November 2007.

**Margaret M. Mann
State Hearing Officer**