



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

December 10, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 10, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your benefits under the West Virginia Works Program based on the application of a first (1st) level 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 first offense, the sanction consists of a 1/3 reduction in the check amount for 3 months. 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 of your Personal Responsibility Contract.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to apply a 1st level sanction in your WV WORKS case.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
James Miller, FSS, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-2383

**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 December 10, 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 hearing was convened on December 10, 2007 on a timely appeal filed October 30, 2007.

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

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
James Miller, 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 its proposal to reduce the Claimant benefits and services through the WV WORKS Program based on the imposition of a 1st sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.25, 13.9, 13.10, 24.3 & 24.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- A. Hearings Summary
- B. Part II of the Personal Responsibility Contract, dated 8/29/07
- C. Notice of Decision dated 10/16/07
- D. IG-BR-29, Hearing/Grievance Record Information
- E. Notice of scheduled hearing and rescheduling notice
- F. WVIMM, Chapter 24.11, 1.25, 13.9 and 24.4

VII. FINDINGS OF FACT:

- 1) A Personal Responsibility Contract, hereinafter PRC, was completed and signed with the Claimant on August 29, 2007. The PRC notes that timesheets were required to be submitted by the 5th of each month beginning September 5, 2007 to verify attendance at her assigned activities.
- 2) The Department presented testimony to indicate that the Claimant failed to submit her timesheets for the month of August 2007 (by 9/5/07) and that she no timesheets were received from the Claimant for September 2007 (by 10/5/07).

- 3) On or about October 16, 2007, the Claimant was notified via a Notice of Decision (Exhibit C) that her WV WORKS benefits were going to be reduced from \$301 to \$181 effective November 1, 2007. The reason states as follows – “A first sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC). A Good Cause appointment was scheduled for the Claimant on October 25, 2007 but was conducted on October 30, 2007.
- 4) The Department noted that the Claimant failed to establish good cause for failing to comply with the requirements of her PRC as she reportedly stated that it was a stupid requirement and then stated that she was unaware that she needed to turn in timesheets.
- 5) The Claimant purported that she didn't say it was stupid, but she thought that she didn't have to submit timesheets because she had won a fair hearing regarding this requirement. It should be noted that the 07-BOR-1780 hearing decision rendered on August 30, 2007 addressed a sanction that was imposed during a time when the Claimant was exempt from participation in a WV WORKS activity because she had a child under the age of one (1) year(s) old. The Claimant's new PRC, (Exhibit B) was completed on August 29, 2007 and the Claimant was no longer exempt from WV WORKS mandatory participation requirements.
- 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, Chapter 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 Virginia 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, and states - . Temporarily not meeting participation requirements are life events or problems such as, but not limited to, the death of a spouse, parent, child, or stepchild or a life threatening illness of a spouse, parent, or child that requires the client's immediate attention. The Claimant failed to meet this standard.
- 10) West Virginia Income Maintenance Manual ' 13.9 (C) states that the imposition of a sanction may be delayed by a Fair Hearing request. When the Department is upheld, the sanction begins in the month following the Fair Hearing decision.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that failure, without good cause, to adhere to the responsibilities contained in Part 1 or Part 2 of the PRC results in the 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/her PRC, a sanction must be imposed unless the worker determines that good cause exists. A 1st level sanction results in a 1/3 reduction in WV WORKS benefits for a period of 90 days.
- 3) The evidence confirms that by failing to provide her timesheets by the 5th of each month (September and October 2007), the Claimant violated the contractual agreement of her PRC.
- 4) Whereas the Claimant failed to establish good cause for not adhering to her PRC, the Agency has correctly proposed applying a 1st level sanction to her WV WORKS case.
- 5) In accordance with current WV WORKS Policy, the sanction will be effective January 1, 2008 - the month following the Fair Hearing Decision.

IX. DECISION:

After reviewing the information presented during the hearing, and the applicable policy and regulations, I am ruling to **uphold** the Agency's proposal to apply a 1st level sanction to the Claimant's WV WORKS benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 10th Day of December 2007.

Thomas E. Arnett
State Hearing Officer