



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

January 9, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 20, 2006. 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 would terminate 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: Under heading: (Formal Case Review in 55th Month). If the client refuses to cooperate at all with this case review process, there are no sanctions or other penalties associated with refusal to cooperate.

The information, which was submitted at your hearing, revealed that sanctions in dispute were imposed due to non-cooperation with the 55th Month review process.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to impose sanctions 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
Collis, DHHR

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

_____,
Claimant,

v.

Action Number: 06-BOR-3125

**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 20, 2006 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 December 20, 2006 on a timely appeal, filed September 22, 2006.

It should be noted here that repayment and recoupment have been postponed pending a 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

Darcia Collis , DHHR Family Support Supervisor

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 case due to sanctions against your WV Works, cash assistance case.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 13.9 and 15.6D

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Income Maintenance Manual 15.6
- D-2 WV Income Maintenance Manual 13.9
- D-3 Notification letter dated September 13, 2006 WV Works 3rd Sanction, good cause NA
- D-3a Notification letter dated September 5, 2006 WV Works 1st Sanction & good cause appt.
- D-3b Notification letter dated September 5, 2006 FS
- D-4 Scheduling letter dated August 4, 2006 for appt. August 25, 2006
- D-5 Case Comments April 07, 2006 thru September 22, 2006 (provided subsequent to the adjournment of the hearing)

Claimant's Exhibits:

- C-1 Affidavit of Truck Repossession dated May 15, 2006

VII. FINDINGS OF FACT:

- 1) The claimant and husband were active recipients of WV Works cash assistance on August 1, 2006 when a review was completed on their case. Worker WW3201, Kathy Unger, completed this review with the clients. Case comments, Exhibit D-5, notes that the clients had no transportation at this time.
- 2) On August 4, 2006, the WW3201 sent a notification addressed to the claimant advising of a scheduled appointment for both she and her husband on August 25, 2006. This appointment was for a 55 month case review to address the approaching 60-month Cash Assistance limit. The clients did not keep this appointment or contact the Department regarding the appointment.

- 3) On August 29, 2006, the claimant appeared at the DHHR office and spoke with worker WW3201 about emergency assistance for pending Electric termination of service.
- 4) On September 5, 2006, worker WW3201 sent a notification, Exhibit D-3a, to the clients of the decrease in their cash assistance due to a **1st sanction**, emphasis added, being applied to their case for failure to keep an appointment. 1/3 check reduction was to be effective 10/01/06. This notice advised the claimant of a GOOD CAUSE appointment for September 11, 2006. The notice advised that if this appointment was not kept, the 1st sanction would be applied to the benefits.
- 5) On September 12, 2006, case comments show documentation of the Department taking action because of the September 11, 2006 missed appointment. Case comments state: "good cause appointment scheduled for 9/11/06 for failing to attend 55 month meeting. The clients did not show for the good cause appointment on 9/11/06. AIPR was completed with NO's for Good Cause and the AIPR screen was completed with a screen for Raymond, as the SN in this case. SFED RAN, and client's benefits failing for a **3rd sanction**, emphasis added, begins 10/06.
- 6) On September 13, 2006 worker WW3201 sent a notification, Exhibit D-3, to the clients of the 3rd sanction being applied due to failure to keep appointment. This notification did not offer an opportunity for a Good Cause interview. NA was noted in this portion of the letter.
- 7) On September 15, 2006, the claimant was in the DHHR office and spoke with worker WW3201 again regarding emergency assistance for her electric bill.
- 8) On September 22, 2006, both claimant and her husband appeared at the DHHR office requesting a Fair Hearing regarding the proposed discontinuance of cash benefits due to the application of the 3rd sanction.
- 9) **WV Income Maintenance Manual § 13.9A:**
 Sanctions are applied to WV WORKS cases in the form of check reductions and, for the 3rd or subsequent offense, termination of benefits. 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.

- 10) **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.
- 11) **WV Income Maintenance Manual § 13.9C:**
The sanction period begins the month after expiration of the advance notice period. A sanction is not imposed by having the client repay all or part of the benefit he has already received. A reduced check amount for three months or termination of cash assistance for at least 3 months is the only means by which a sanction is imposed. After the 2nd sanction has been imposed, the Worker must make a home visit. When the 3rd sanction occurs prior to the home visit, the imposition of the 3rd sanction must be delayed until the home visit is completed.
- 12) **WV Income Maintenance Manual § 15.6D: Formal Case Review in 55 Month**
After a client has received WV WORKS for 55 months, a formal case review must be conducted. The Worker must issue letters to the client, the intensive case management agency and other DHHR staff to coordinate and schedule the appointment. The client is responsible for notifying anyone he wants to be involved in the process. The review involves a face-to-face meeting with the Worker, Supervisor, the Client and his advocate(s) or representative(s), the intensive case management agency, the Community Services Manager, and any other entity with a vested interest, such as, but not limited to, representatives from Social Services, Housing, and Domestic Violence. This group determines what can be done before the client reaches the 60-month time limit to become self-sufficient, or to start the process toward self-sufficiency.

All scheduling, rescheduling and abandonment of the review process must be documented in RAPIDS. If the client refuses to cooperate at all with this case review process, it must be documented in RAPIDS and the Worker is no longer obligated to pursue the review. There are no sanctions or other penalties associated with refusal to cooperate.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 15.6D that there are no sanctions or other penalties associated with the client's refusal to cooperate with the 55th month case review. Documents and testimony obtained during this hearing process directed attention to the failure to keep the 55th month appointment and the ultimate good cause appointment as being the caused for the imposition of the 1st and ultimate 3rd sanction.
- 2) Policy indicates that the 55th month case review is for the clients benefit to help them become self-sufficient prior to the end of their limited cash assistance. It further implies that if they choose not to utilize this opportunity they are not to be penalized.

- 3) It was inappropriate for the Department to issue the notifications of pending sanctions for the failure to keep the 55th month case review appt. It was also inappropriate for the Department to initiate additional sanctions for not showing for the good cause appointment. Policy in 13.9 does not provide for additional sanctions to be imposed when good cause appointments are not kept. Policy states that: Unless the client shows good cause for non-compliance, the sanction is imposed.

IX. DECISION:

It is the decision of this Hearing Officer that the Department was in error to impose sanctions for the clients non-cooperation with the scheduled 55 month review process. I **reverse** their actions to reduce the claimant's cash assistance effective October 1, 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of January 2007.

Sharon K. Yoho
State Hearing Officer