



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

January 18, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 13, 2006. 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 application of a third 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 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 third offense and all subsequent offenses, the sanction consists of ineligibility for cash assistance for three months or until compliance, whichever is later. 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 Section 13.9)

Information submitted at your hearing reveals that you failed to comply with the requirements of your PRC. Because you were unable to establish good cause for non-compliance, the Agency has correctly proposed that a third sanction be applied to your case.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to apply a third sanction to your West Virginia Works benefits.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Michael Stanley, [REDACTED] DHHR

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

_____,
Claimant,

v.

Action Number: 06-BOR-3198

**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 13, 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 13, 2006 on a timely appeal filed October 11, 2006.

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.

West Virginia 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
Michael Stanley, Family Support Supervisor, [REDACTED] DHHR

Presiding at the hearing was Cheryl McKinney, 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 third-level sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 1.25, 13.9 and 13.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Summary of Events
- D-2 DFA-PRC-1 Personal Responsibility Contract dated August 28, 2006 (4 pages)
- D-3 OFS-TS-12 Participant Time Sheet for May 2006
- D-4 OFS-TS-12 Participant Time Sheet for June 2006 (2 pages)
- D-5 OFS-TS-12 Participant Time Sheet for July 2006 (2 pages)
- D-6 OFS-TS-12 Participant Time Sheet for September 2006
- D-7 OFS-TS-12 Participant Time Sheet for October 2006
- D-8 DFA-PRC-1 PRC dated August 28, 2006 (4 pages)

VII. FINDINGS OF FACT:

- 1) The Family Support Supervisor testified and presented written documentation (D-1) indicating the Claimant reapplied for WV Works Cash Assistance on May 11, 2006. The Department testified that the household had previously been sanctioned several times with the last sanction having been imposed from February 2006 through April 30, 2006. On August 28, 2006 Claimant and the other adult parent in the household signed Personal Responsibility Contracts (D-2), with the Claimant agreeing to take a Driver's test by October 15, 2006 and attend GED classes beginning September 4, 2006. The other adult parent's contract indicated he agreed to provide a medical statement by September 15, 2006. (D-8)

- 2) The Department testified that they were aware the Claimant did not have transportation and made arrangements for a case aide to transport her to class until a bus pass could be arranged. The case aide transported the Claimant to GED class on September 4, 2006 and was instructed by the teacher to bring the Claimant back on September 5, 2006 at which time a bus pass could be arranged for her. The Department testified the Claimant “waved the case aide away” when she arrived to pick up the Claimant the morning of September 5, 2006. The Claimant testified that the other adult parent in the household was not home that morning and therefore she did not have a babysitter. She stated she understood that the other adult parent was supposed to provide child care while she attended the GED class; however this was not reflected on his Personal Responsibility Contract. The Claimant attended the activity 2.5 hours on September 14, 2006 and 4 hours on September 19, 2006. (D-6) No other hours of attendance were indicated for the month. The teacher indicated on the September timesheet that the Claimant “has Bus Pass”. No evidence was provided to indicate the Claimant took the Driver’s test as agreed. Also, no evidence was provided to show the other adult parent provided the requested medical statement by September 15, 2006.
- 3) On September 27, 2006, the Family Support Specialist sent the Claimant a letter which states, in part:

Action: Your WV Works will stop. You will not receive this benefit after October 2006.

Reason: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract.

A good cause appointment was scheduled for September 12, 2006 however the Claimant failed to attend. The Claimant submitted a fair hearing request regarding the imposed sanction on October 11, 2006.

- 4) The Claimant testified that she did not go with the case aide on September 5, 2006 because she had no babysitter, and she did not make an attempt to contact her case worker. She stated the phones were out around September 25, 2006, but did not offer an explanation for not contacting her caseworker on September 5, 2006 to inform her of the problem and discuss the situation.
- 5) 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.
- 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) West Virginia Income Maintenance Manual Section 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.
- 8) West Virginia Income Maintenance Manual Section 13.10 sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract. The client has good cause for failure to participate when:
 - The parent or included non-parent caretaker quits employment or fails to participate in his assigned activity due to enrollment and full-time attendance in school, training or an institution of higher learning. College is defined as a 2- or 4-year undergraduate degree program.
 - A single parent can prove that child care is unavailable for his child, age 6 or under.
 - He is required to appear in court or for jury duty.
 - He is experiencing a family crisis such as death or the life-threatening illness of a spouse, parent, child or stepchild, or domestic violence and/or the need to protect abused children makes participation impossible, dangerous or embarrassing and the client accepts a referral for assistance.
 - The minimum suitability standards for the specific activity are not met.
 - Based on knowledge of the client and his life circumstances, the worker determines that the client has not met the requirement, but has complied to the best of his ability, understanding of the requirement, understanding of the sanction process and/or level of motivation. The Worker has considerable discretion in imposing a sanction. The Worker may determine that the requirement was inappropriate based upon additional assessment. In addition, the Worker may determine that not applying a sanction in a particular situation provides more motivation for future participation than the imposition of a sanction. However,

once a sanction has been imposed, it cannot be stopped, until the appropriate time has elapsed, or the appropriate action is taken.

- A requirement of Social Services precludes participation for a specified period of time.
- He refuses to accept surgery which would eliminate or significantly improve his condition, even if the refusal precludes participation.
- He would be required to travel more than one hour each way to participate.

VIII. CONCLUSIONS OF LAW:

- 1) Policy stipulates that when a member of a West Virginia Works Assistance Group does not comply with the requirements found on his or her PRC, a sanction must be imposed unless the worker determines that good cause exists. For a third offense and all subsequent offenses, the Assistance Group is ineligible for cash assistance for three (3) months or until compliance, whichever is later.
- 2) Evidence reveals that the Claimant did attend GED classes during the month of September 2006 as agreed to on her Personal Responsibility Contract.(D-2) The September 2006 timesheet (D-6) indicates she attended two days for a total of 6.5 hours for the month. I find no evidence to indicate a minimum amount of attendance hours was agreed upon. The Personal Responsibility Contract indicates simply “attend GED classes”. However, the Claimant did fail to take a Driver’s test by October 15, 2006 as agreed to on her Personal Responsibility Contract, and the other adult parent failed to abide by the terms of his Personal Responsibility Contract by providing a medical statement by September 15, 2006. No good cause was provided for these failures.
- 3) Whereas the Claimant was unable to establish good cause for failing to adhere to her PRC, the Agency has correctly imposed the application of a third sanction to her West Virginia Works benefits.

IX. DECISION:

Based on information presented during the hearing and applicable policy, it is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to apply a third sanction to the Claimant’s West Virginia Works benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of January 2007.

**Cheryl McKinney
State Hearing Officer**