



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 22, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 4, 2007. 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 terminated 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: 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.

The information, which was submitted at your hearing, revealed that you failed without cause to comply with your PRC requirements.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to impose the sanction 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
Liller, DHHR

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

_____,
Claimant,

Action Number: 06-BOR-3207

**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 January 4, 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 originally scheduled for December 14, 2006 and rescheduled at the claimant's request. The hearing was convened on January 4, 2007 on a timely appeal, filed October 25, 2006.

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

_____, co-claimant, father of claimant's children

Christine Liller, Income Maintenance Worker

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 application of a third sanction against your WV Works, cash assistance case.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 1.25 T and 13.9

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Works Personal Responsibility Contract (PRC) dated September 18, 2006 _____
- D-2 WV Works Personal Responsibility Contract (PRC) dated September 18, 2006 _____
- D-3 Participant Time Sheet dated October 16, 2006
- D-4 WV Works Personal Responsibility Contract (PRC) dated August 24, 2006 _____
- D-5 WV Works Personal Responsibility Contract (PRC) dated August 24, 2006 _____
- D-6 WV Income Maintenance Manual Policy 13.9, 13.10 and 24.4
- D-7 Notification letter dated October 12, 2006 WV Works 3rd Sanction, good cause appt.
- D-8 Case comments

VII. FINDINGS OF FACT:

- 1) The claimant and co-claimant were active recipients of WV Works cash assistance on October 12, 2006 when the Department proposed to apply a third sanction to their case for failure to comply with personal responsibility contracts (PRC).
- 2) Three persons began residing in the claimant's home the 3rd week in August 2006. This family applied for food stamps and reported living at the claimant's address. Neither the claimant nor co-claimant reported this change to the Department, which was a requirement of their PRC. The Department imposed a 25% reduction in their cash assistance due to non-budget group members residing with the family. The claimants contacted the Department and signed statements saying that these people were not residing with them. The 25% reduction was lifted. The landlord later

reported that the people were residing with the claimants and that these people were paying \$100. for extra rent. The co-claimant also described his frustrations to the Department later regarding these people still residing with them.

- 3) The claimant's PRC dated August 24, 2006 and the one dated September 18, 2006 both state that she was to report all changes and she was to report hours of participation on ts-12 and return by the 5th of each month. The September 18, 2006 PRC stated that she was to continue working at [REDACTED] and report hours of participation on ts-12. The claimant began working at [REDACTED] on September 12. She reported that she would be working 15 hrs. per week. [REDACTED] faxed employment verification. The Department issued a gas voucher for transportation to work.
- 4) On September 25, 2006 the claimant called the office regarding her need for another gas voucher and was told that she would need to verify hours to get another gas voucher and that she should also bring in a pay stubs. She became upset because she had already verified that she works 15 hrs. per week. She came into the office later that day and brought a piece of paper with her schedule wrote down on it. She became upset when the worker was trying to figure out if she would be eligible for a gas voucher. She used profanity and left the office.
- 5) On September 28, 2006, a home visit, which was scheduled, for this case was cancelled due to the claimant's behavior in the office.
- 6) On October 11, 2006, the claimant returned to the office requesting a gas voucher. The worker asked her for her time sheet and the claimant told the worker that the lady who signs the time sheets is on maternity leave. When a time sheet was finally received by the Department on October 16, 2006 it was determined that the claimant was working 26.25 hours per week instead of the previously reported 15 hours per week. The worker made the needed changes in the computer system to reflect the increased income.
- 7) On October 12, 2006, the Department sent a notification addressed to the claimant advising of a third sanction being imposed on the case due to failure to comply with the requirements of the PRC. This notification also notified of a scheduled appointment of October 18, 2006 to determine if good cause for non-compliance exists.
- 8) On October 18, 2006 the good cause appointment was held with the worker and supervisor. The Department arranged for the community service manager to be present also, due to the hostility that these claimants had previously exhibited. The claimant reported that she was confused about the time sheet requirement. During the discussion about the other people living in their home and their failure to report, the co-claimant described his frustrations about these people still living with them and the trouble it is causing their family. The Department made the decision after the good cause appointment that the sanction could not be lifted and that good cause was not established.

- 9) The claimant testified at this hearing that she did not provide the required time sheets because she was having a hard time getting the boss to sign the sheets. The co-claimant testified that is embarrassing to keep asking the boss for time sheets. The claimant testified that she did not report the people moving into their home because she was not allowing them to sleep there. She stated that they slept in a vacant house up on the hill behind their house. She explained that the landlord was charging the people \$100. because he knew, they would be using the bathroom facilities in their home.
- 10) **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.
- 11) **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.
- 12) **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.
- 13) **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.
- 14) **WV Income Maintenance Manual § 13.9C:**
The sanction period begins the month after expiration of the advance notice period. 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that sanctions be imposed when the client does not comply with requirements outlined in the PRC. It is clear that these claimant's were aware that they were to notify the Department when other people moved in to their home. Furthermore, evidence and testimony prove that these people were living with the claimants and suggests that the claimants were denying this in order to avoid a reduction in their cash assistance.
- 2) The claimant's PRC dated September 18, 2006 was clear that she was to report hours of participation by the 5th of each month on form ts-12. Evidence and testimony support that the claimant was aware of this obligation and that she failed to comply. Evidence also shows that her hours worked and earnings were more than she had indicated at the beginning of her employment which suggests that she may have been withholding information necessary to determine accurate benefits.
- 3) It is clear that the claimants did not prove good cause for their non-compliance and therefore the third sanction and subsequent termination of cash assistance is justified. It is not clear whether the mandatory home visit, which must be made after the second sanction, was completed on this case; however, the hostility documented in this case would justify the absence of a home visit.

IX. DECISION:

It is the decision of this Hearing Officer that the Department was correct in their imposition of the third sanction and termination of cash benefits. Their actions are **upheld** by this Hearing Officer.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of January 2007.

Sharon K. Yoho

State Hearing Officer