



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

February 28, 2007

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 15, 2007. 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-level (3rd) 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 3 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 § 13.9)

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

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to apply a sanction in your WV WORKS case. A 3rd sanction will be applied to your WV WORKS case effective April 1, 2007.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Lisa Gongola, FSS, DHHR

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

____,

Claimant,

v.

Action Number: 06-BOR-3422

**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 February 28, 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 convened on February 15, 2007 on a timely appeal, filed December 12, 2006.

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

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

Lisa Gongola, FSS, DHHR

Pam Paith, Esq., Bureau for Child Support Enforcement (BCSE)

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 terminate the Claimant's benefits and services through the WV WORKS Program based on the imposition of a 3rd sanction.

V. APPLICABLE POLICY:

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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Notice of Decision dated 12/04/06

D-2 Referral and Communications Form (DHS-1) dated November 29, 2006

D-3 WV WORKS Personal Responsibility Contract (PRC) dated 3/1/06

D-4 WVIMM Chapter 1.25

D-5 WVIMM Chapter 13.9

D-6 WVIMM Chapter 24.4

VII. FINDINGS OF FACT:

- 1) On or about December 4, 2006, the Claimant was notified via a Notice of Decision (Exhibit D-1) that the Department was applying a third-level sanction to her WV WORKS benefits due to failure to comply with the requirements of the Personal Responsibility Contract (PRC). This notice states that benefits will stop effective after December 2006.
- 2) The Department submitted Exhibit D-3, the Claimant's Personal Responsibility Contract, hereinafter PRC, which was signed by the Claimant on March 1, 2006. By signing the PRC, the Claimant agreed to the terms and conditions contained therein. The Department cited Part 1 of 2 (Client Responsibilities) of the PRC which require the Claimant to help collect child support for her children and to attend any meetings/appointments related to eligibility for cash assistance.

- 3) Exhibit D-2 is a Referral and Communications Form (DHS-1) used for interdepartmental correspondence. This document was submitted by the Department to show that the Claimant failed to appear for a child support hearing in Family Court on November 28, 2006, and Bureau for Child Support Enforcement attorney, Pam Paith, requested the Claimant be sanctioned for failing to cooperate with BCSE.
- 4) The Claimant did not contest the fact that she failed to appear for a child support hearing and there was no evidence to indicate that she attempted to establish good cause (at or before the hearing).
- 5) 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.
- 6) West Virginia Income Maintenance Manual ' 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 Virgin 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.
- 8) 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.
- 9) 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 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.
- 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 third-level sanction and all subsequent offenses result in ineligibility for cash assistance for 3 months or until compliance, whichever is later.

- 3) The evidence confirms that by failing to attend a scheduled child support hearing, the Claimant violated the contractual agreement of her PRC to cooperate with BCSE and to attend all scheduled appointments.
- 4) Whereas the Claimant didn't attempt to establish good cause for failing to adhere to her PRC, the Agency has correctly proposed applying a 3rd sanction to her WV WORKS case.
- 5) In accordance with existing WV WORKS Policy, the sanction will be effective April 1, 2007, 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 proposal of the Agency to apply a 3rd sanction to your WV WORKS benefits. This sanction will be effective April 1, 2007.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 28th Day of February 2007.

**Thomas E. Arnett
State Hearing Officer**