



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 19, 2007

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 12, 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 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 Department has correctly imposed a third sanction to your case.

It is the decision of the State Hearing Officer to **uphold** the Department's action to impose 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  
Judy, B. Bell, [REDACTED] DHHR

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 06-BOR-3468**

**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 12, 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 convened on January 12, 2007 on a timely appeal filed December 4, 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  
\_\_\_\_\_, Claimant's boyfriend  
Linda Kidd, Family Support Worker, [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 decision 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 Copy of PRC dated July 14, 2006 (2 pages)
- D-2 Copy of July 2006 Timesheet
- D-3 Copy of PRC dated August 29, 2006 (2 pages)
- D-4 Copy of August 2006 Timesheet
- D-5 Copy of September 2006 Timesheet (2 pages)
- D-6 Copy of PRC dated October 10, 2006 (2 pages)
- D-7 Copy of October 2006 Timesheet (2 pages)
- D-8 Copy of notification letter dated November 3, 2006
- D-9 Copy of November 2006 Timesheet (2 pages)
- D-10 WV Income Maintenance Manual Section 13.9
- D-11 WV Income Maintenance Manual Section 24.5
- D-12 WV Income Maintenance Manual Section 24.3
- D-13 WV Income Maintenance Manual Section 24.3
- D-14 WV Income Maintenance Manual Section 13.10

#### **Claimant's Exhibits:**

None

## VII. FINDINGS OF FACT:

- 1) The Department testified that the Claimant was in the office on July 14, 2006 at which time her Personal Responsibility Contract (PRC) was updated with an assignment to attend GED class. (D-1) The PRC indicated it was agreed by both parties that Claimant would "ATTEND GED CLASSES DUE TO AGE". The Claimant called and left her caseworker a voice message on July 17, 2006 indicating she could not attend GED class as she would be out of town all week. The Claimant's timesheet for July 2006 (D-2) indicated she attended only 3 days for a total of 14 hours for the month.
- 2) On August 29, 2006 a case review was completed, and the Department discussed with the Claimant her attendance in GED class. The claimant indicated she now had transportation and would not miss any more. Claimant's PRC was again updated (D-3) as both parties agreed the Claimant would "ATTEND GED CLASSES DAILY 20 HR PER WEEK". Claimant's August 2006 timesheet (D-4) indicated she attended 7 days for a total of 22 hours for the month. Claimant's September 2006 timesheet (D-5) indicated she attended 5 days for a total of 15 monthly hours of participation. A medical excuse was attached to this timesheet indicating the Claimant was under medical care from September 7<sup>th</sup> through September 11, 2006.
- 3) On October 10, 2006 Claimant's PRC was again updated (D-6) and it was mutually agreed that she would again attend GED classes 20 hours weekly. Claimant's October 2006 timesheet (D-7) indicated she attended 1 day for a total of 2.5 hours for the month. The caseworker sent a notification letter (D-8) to the Claimant dated November 3, 2006 notifying her that her WV Works would stop and she would not receive this benefit after November 2006. The reason given was because a third-level sanction was being imposed for failure to comply with requirements of the Personal Responsibility Contract. This same letter notified the claimant that a Good Cause appointment had been scheduled for her on November 9, 2006. The claimant attended the Good Cause appointment and submitted two (2) medical statements covering October 30, 2006 through November 2, 2006 and November 3, 2006. The caseworker told the Claimant that she could stop the sanction by attending GED class every day, and that if she would attend daily the sanction would not be applied. The Claimant testified that her baby had been sick a few days in October 2006, and she was without a babysitter for a few days as well, but offered no further documentation of such.
- 4) The Department contacted the GED instructor on November 28, 2006 and was informed that the Claimant had attended only four days for the month. The dates attended were November 14, 20, 21 and 28. The November 2006 timesheet (D-9) indicated Claimant attended class five (5) days for a total of 13 hours participation for the month. The Department testified that GED classes are held Monday through Thursday 8:00 am through 3:00 pm and Fridays are available for makeup time.
- 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 states in pertinent 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.

1<sup>st</sup> Offense- 1/3 reduction in the check amount for 3 months.

2<sup>nd</sup> Offense- 2/3 reduction in the check amount for 3 months.

3<sup>rd</sup> 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 not attend GED classes as agreed during the months of September, October, and November 2006, and failed to establish good cause for her failure to attend at least 20 hours per week.
- 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 19<sup>th</sup> Day of January 2007.**

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**Cheryl McKinney  
State Hearing Officer**