



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2669 Park Avenue, Suite 100  
Huntington, WV 25705

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

April 5, 2007

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 29, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your assistance check under the WV Works Program due to imposition of a third-level 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 WV 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. (West Virginia Income Maintenance Manual Section 13.9)

The information which was submitted at the hearing revealed that you failed to cooperate with WV Works Program requirements by failing to complete ABE classes and failing to complete Community Service.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate your assistance check under the WV Works Program due to imposition of a third-level sanction. The sanction will be effective May through July, 2007.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Delores Smith, FSS, DHHR

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-888**

**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 March 29, 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 March 29, 2007 on a timely appeal filed February 20, 2007.

It should be noted that WV Works benefits have continued 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  
Delores Smith, FSS, DHHR

Presiding at the hearing was Thomas M. Smith, 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 correctly proposed termination of the claimant's assistance check through the WV Works Program based on a third-level sanction.

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Sections 1.25, 13.9, 13.10, and 24.4.

### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

#### **Department's Exhibits:**

- #1 Copy of narrative.
- #2 Copy of notification letters dated 2-14-07 (6 pages).
- #3 Copy of hearing request 2-20-07.
- #4 Copy of form IG-BR-29.
- #5A Copy of hearing appointment letter 3-6-07.
- #5B Copy of hearing appointment letter 3-16-07.
- #6 Copy of Personal Responsibility Contract 11-15-06 (2 pages).
- #7A Copy of WV Income Maintenance Manual Section 1.25 (5 pages).
- #7B Copy of WV Income Maintenance Manual Section 13.9 (6 pages).
- #7C Copy of WV Income Maintenance Manual Section 24.4 (2 pages).
- #8 Copy of case comments and doctor statement (6 pages).
- #9 Copy of doctor statement 3-23-07.

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

- #C1-1 Copy of doctor statement 2-20-07.

### **VII. FINDINGS OF FACT:**

- 1) The Claimant signed a Personal Responsibility Contract (PRC) on 11-15-06 (Exhibit #6). Responsibilities to which the Claimant agreed include the following:

I understand that if I am a parent age 20 or above, I will have to get a job or be in a job activity, or both. I further understand that

if I quit or refuse a job or job activity without good cause, I will be sanctioned.

I understand that I must develop a Self-Sufficiency Plan as part of my PRC. The final goal of my plan will be to become self-supporting. My plan will have time limits set for me to do assignments/activities and to reach my goals. I must follow my plan or I will be sanctioned.

- 2) The claimant agreed on the PRC completed 11-15-06 to complete attend ABE classes 21 hours per week and to complete 9 hours per week in a Community Service activity beginning on 11-17-06 (Exhibit #6).
- 3) The claimant stated at the 45 day home visit that she was attending ABE classes and was given a Community Service form to be completed at the site of her choice.
- 4) A third-level sanction was imposed on 2-14-07 to terminate the assistance check and a notification letter was mailed to the claimant that date due to not attending the ABE classes and not turning in a Community Service timesheet and a good cause appointment was scheduled for 2-20-07 at 9:30 a.m. (Exhibit #2).
- 5) The claimant failed to keep the good cause interview on 2-20-07 but showed up on 2-21-07 and requested a pre-hearing conference with the supervisor but did not attend.
- 6) The Department Representative testified that the claimant had provided a medical statement on 2-21-07 but the statement did not say that she could not work or needed full bed rest and that the claimant did bring in a medical statement on 3-26-07 stating it was then time for her to take maternity leave but that the period in question was January and February, 2007 and the claimant had no medical statement that she was unable to work during that time.
- 7) The claimant testified that she did attend the ABE classes and did Community Service but started having complications in February, 2007, that she went to class when she could make it, that her doctor told her not to even start them, that she did not turn in a time sheet for February, 2007, that she had other medical statements she provided to the Department, and that she did go to the Community Services.
- 8) The hearing decision was continued to allow the claimant to obtain another medical statement to show that she was unable to participate in work activities during the months of January and February, 2007 and to obtain a time sheet from Community Service. The claimant was allowed until 4-4-07 to provide the documents to the Department and the State Hearing Officer informed both parties that a hearing decision would be issued without the documents if they were not provided by 4-4-07. As of 4-5-07, the State Hearing Officer had not received any additional documents from the claimant and proceeded with the hearing decision.
- 9) Policy found in West Virginia Income Maintenance Manual Section 1.25T (D-5) states that the Personal Responsibility Contract (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 or any tasks listed on the PRC after signature, results in imposition of a sanction against the benefit group. No sanction may be imposed for failing to adhere to any provision that is not specifically addressed on the PRC at the time the failure occurred.

10) West Virginia Income Maintenance Manual Section 13.9 (D-5):

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.

Unless the client shows good cause for non-compliance, the sanction is imposed.

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.

11) West Virginia Income Maintenance Manual Section 13.9 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.

12) 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. It states:

If a parent or other caretaker relative included in the payment quits or refuses employment within the 30 day period prior to the date of application or when the client fails or refuses to meet his work requirement and/or adhere to his PRC requirements, the Worker must determine the reason for such failure or refusal.

Failure or refusal to comply, without good cause, results in imposition of a sanction. When the Worker discovers the failure or refusal, a notice of adverse action must be issued.

This section states that all good cause determinations must be recorded in RAPIDS. The recording must include the reason the Worker did or did not impose a sanction.

13) WV Income Maintenance Manual Section 13.10 states, in part:

“If a parent or other caretaker relative included in the payment quits or refuses employment within the 30 day period prior to the date of application or when the client fails or refuses to meet his work requirement and/or adhere to his PRC requirements, the Worker must determine the reason for such failure or refusal.

Failure or refusal to comply, without good cause, results in imposition of a sanction.

NOTE: To avoid imposition of a sanction due to good cause, the good cause must be established during the advance notice period. See item 13.8, A.

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.....

- A single parent can prove that appropriate child care is unavailable for his child, age 6 or younger.

- He is required to appear in court or for jury duty.

- He is experiencing a family crisis such as, but not limited to:

Death of his spouse, parent, child, or stepchild.

A life-threatening illness of a spouse, parent or child requires the client's immediate attention.

Domestic violence and/or the need to protect abused children makes participation impossible, dangerous, or embarrassing and the client accepts a referral to Social Services or a Domestic Violence center 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.....”

- A requirement of the Office 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 round trip to participate, unless it can be shown that local community travel standards exceed the one-hour limitation.

- 14) The area of dispute involves whether the claimant failed to cooperate with WV Works requirements and if so, whether or not the claimant had good cause for such failure. The evidence and testimony show that the claimant did fail to cooperate with WV Works requirements by failing to attend ABE classes for 21 hours per week and failing to work Community Services for 9 hours per week as agreed to on the PRC she signed on 11-15-06. The claimant provided a medical statement on 2-21-07 during a good cause interview which stated that she needed to be excused from school and community services but the statement said nothing about the months of January and February, 2007. The claimant provided another medical statement on 3-26-07 dated 3-23-07 which stated that it was time for her to have complete maternity leave but again did not state that she was unable to participate in work activities during the months of January and February, 2007. The claimant testified during the hearing that she could provide a medical statement verifying her inability to participate in work activities for those months and was allowed until 4-4-07 to do so but the State Hearing Officer received no such documentation from the claimant as of 4-5-07. While the State Hearing Officer finds that the Department did not specify on the PRC that the claimant was to turn in a time sheet for the Community Service, the State Hearing Officer finds that the claimant did fail to cooperate with WV Works requirements and did not substantiate good cause for such failure.

## **VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that when a member of the benefit group does not comply with requirements found on his PRC, a sanction must be imposed unless the worker determines that good cause exists. No sanction may be imposed for failing to adhere to any provision that is not specifically addressed on the PRC at the time the failure occurred.
- 2) Evidence reveals that the Department imposed the third-level sanction to the Claimant's case as a result of failure to attend ABE classes and failure to turn in a time sheet to verify community service work for the months of January and February, 2007. The claimant did not verify good cause for such failure.

## **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to impose a third-level sanction to the Claimant's case and to terminate the WV Works assistance check. The sanction will take be effective May through July, 2007.

## **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 5th Day of April, 2007.**

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**Thomas M. Smith  
State Hearing Officer**