



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 3, 2008

Dear [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 11, 2008. Your hearing request was based on the Department of Health and Human Resources' reduction of your WV Works benefits due to a first-level sanction.

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 the WV Works Program is based on current policy and regulations. Some of these regulations state as follows: When a member of the AG or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC, a sanction must be imposed unless the Worker determines that good cause exists (West Virginia Income Maintenance Manual, Chapter 13.9).

The information which was submitted at your hearing revealed that you did not comply with the requirements of your Personal Responsibility Contract (PRC) and that you failed to establish good cause.

It is the decision of the State Hearings Officer to **uphold** the action of the Department to reduce your WV Works benefits due to a sanction.

Sincerely,

Todd Thornton
State Hearings Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Sandra Baker, Family Support Specialist

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

██████████
Claimant,

v.

Action Number: 08-BOR-1100

**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 October 3, 2008 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 April 11, 2008 on a timely appeal, filed March 20, 2008.

It should be noted here that the claimant's benefits have been 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
██████████ Claimant's witness
Sandra Baker, Family Support Specialist

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

All persons offered testimony were placed under oath.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct to impose a first-level sanction reducing WV Works benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapters 1.25; 13.9; 13.10; 24.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification of WV Works reduction, dated March 12, 2008
- D-2 WV Works – Personal Responsibility Contract (DFA-PRC-1)
- D-3 Cover letter dated March 21, 2008 with West Virginia Income Maintenance Manual, Chapters 1.25; 13.9; 24.4
- D-4 Case Comments Screen Prints from February 27, 2008 through March 26, 2008
- D-5 Appointment letter dated February 27, 2008

Claimants' Exhibits:

- C-1 Letter from ██████████

VII. FINDINGS OF FACT:

- 1) The Department offered testimony that on February 4, 2008 the Claimant made an initial application for WV Works, and on February 8, 2008 the Claimant completed a face-to-face interview for the program. The face-to-face interview included the Personal Responsibility Contract (Exhibit D-2), which was completed and signed by the Claimant and the Department worker at the time.
- 2) On February 27, 2008, the Department scheduled a home visit with the Claimant on March 11, 2008 (Exhibit D-5). When the Claimant was not available for the home visit, the Department applied a first-level sanction on the Claimant's WV Works benefits, and notified the Claimant of this action (Exhibit D-1). This notification states, in pertinent part:

1. ACTION: Your WV WORKS will decrease from \$301.00 to \$201.00 effective 04/01/08.
2. REASON: A first sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).
- 3) Exhibit D-1 also stated that the reason for the sanction is failure to keep an appointment and scheduled a Good Cause interview for March 21, 2008. Testimony from both the Department and the Claimant confirmed that this Good Cause appointment was rescheduled and both the Claimant and the Department were in attendance.
- 4) The Personal Responsibility Contract (Exhibit D-2, page 4 of 4) provided a list of assignments and activities, including “Keep home visit appt [sic].” The contract is signed by both the Department worker and the Claimant.
- 5) The West Virginia Income Maintenance Manual, Chapter 13.9 (Exhibit D-5) on WV Works Sanctions states, in pertinent part:

“When a member of the AG or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC, a sanction must be imposed unless the Worker determines that good cause exists.”
- 6) In both the Good Cause interview and the hearing, the Claimant offered testimony explaining why she was unable to keep the home visit appointment as scheduled. She stated that the Department mailed her several letters scheduling and rescheduling appointments, including the home visit appointment in question. She testified that the volume of these letters and the rescheduling of appointments confused her. She did not indicate that she attempted to contact the Department worker to clarify any of these appointments. She also testified that she was not available on the day of the home visit because she was providing child care to a friend in urgent need. The friend, according to the Claimant’s testimony, asked her on short notice and she agreed to help. The Claimant testified that she forgot about her home visit appointment when she agreed to help her friend because she was confused and overwhelmed by the volume of paperwork sent to her by the Department.
- 7) The Claimant’s witness provided testimony and a letter (Exhibit C-1) that reiterated the good cause reasons provided by the Claimant, gave some personal history of the Claimant, and offered his opinions of the WV Works program. The letter does suggest that the Claimant called her Department worker “...to try to get better explanations of certain provisions of the WV Works program and to try several times to get her long-overdue EBT card sent to her...” but does not indicate whether the home visit appointment was discussed.
- 8) Case comments provided by the Department (Exhibit D-4) document a call from the Claimant to her worker on March 10, 2008 – the day before her home visit appointment. The comments indicate that this call was strictly related to the Claimant’s EBT card, with no clarification on appointment dates requested by the Claimant.

- 9) The West Virginia Income Maintenance Manual, Chapter 13.10 states, in pertinent part:

All mandatory Work-Eligible Individuals must be placed into a relevant and a current component for tracking and monitoring purposes on approval date. The participant must remain in that component whether or not they are working, cooperating, or sanctioned until either the case is closed or the Case Manager and participant agree to change the component. Not meeting participation requirements or being sanctioned are not reasons to disenroll the participant from their assigned component(s).

Some reasons for granting good cause for temporarily not meeting participation requirements are life events or problems such as, but not limited to:

- The **death of a spouse, parent, child, or stepchild.**

- In accordance with the Family and Medical Leave Act (FMLA) of 1993, an **acute, life threatening illness of a spouse, parent, or child that requires the client's immediate attention.** This does not include individuals who are exempt from participation due to caring for a disabled family member as outlined in section 13.8.

- The minimum suitability standards for the specific activity are not met. See Sections 24.5 – 24.13 for minimum requirements. If none are listed for the activity, the Worker must determine if the activity placed unreasonable requirements on the client. Individuals granted good cause for this reason must be scheduled an appointment or home visit to review the situation and possible PRC update.

The Worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his ability, understands the requirements, and the sanction process. The Worker has considerable discretion in imposing a sanction. The Worker may determine that the requirement was inappropriate based upon additional assessment. An appointment to update the PRC and place the individual in another component must be scheduled as soon as possible. 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.

- The parent, an included non-parent caretaker, or a non-recipient Work-Eligible Individual 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. The PRC must be updated and these individuals should be placed in the VT, AB, or CL components as soon as possible.

If a parent or a non-parent caretaker relative included in the payment or a non-recipient Work-Eligible Individual quits or refuses employment within the 30-day period prior to the date of application, for a reason other than school enrollment, 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. Appropriate documentation must be provided and the circumstances must be recorded in CMIC and CMCC where applicable.

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. When a letter is mailed scheduling the good cause interview, the Worker must allow no less than 7 calendar days. This period begins the day following the date the letter is requested in RAPIDS, or the day following the date a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the client. If the appointment is scheduled for a date prior to the 7 calendar days, the participant and the Worker must agree on the appointment date. See Section 6.3, Items D and E. A Worker generated letter from RAPIDS or a manual letter, OFS-WV WORKS-NL-1 is used. (emphasis added)

VIII. CONCLUSION OF LAW:

- 1) The Claimant signed a PRC listing requirements that included keeping her appointments scheduled by the Department. When the Claimant failed to keep a home visit appointment, the Department imposed a first-level sanction reducing her WV Works benefits. The good cause reason provided by the Claimant was that she agreed to help a friend and - in her confusion caused by the Department's excessive paperwork - she forgot about the home visit appointment. Not only does policy not provide for this as a good cause reason, but credible evidence from both the Claimant and the Department indicated that the Claimant had a phone conversation with her worker the day before her home visit, and failed to clarify her confusion with appointment dates. The action of the Department to apply a first-level sanction and reduce the Claimant's WV Works benefits is correct.

IX. DECISION:

It is the decision of the State Hearings Officer to **uphold** the action of the Department to apply a first-level sanction and reduce the Claimant's WV Works benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of October, 2008.

Todd Thornton
State Hearings Officer