



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 27, 2008



Dear Ms. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 25, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to impose a third level sanction against your WV Works 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 the WV Works program is based on current policy and regulations. Some of these regulations state as follows: If an individual does not comply with requirements found on his Personal Responsibility Contract, a sanction must be imposed unless the Worker determines that good cause exists. Once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed. Sanctions are applied in the form of benefit reductions and, for the 3rd or subsequent offense, termination of benefits (West Virginia Income Maintenance Manual § 13.9 A).

The information which was submitted at your hearing revealed that you failed to participate in your assigned work activity as indicated on your Personal Responsibility Contract.

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to impose a third level sanction against your WV Works benefits.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika Young, Chairman, Board of Review
Sharon Ellis, Family Support Specialist

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

Claimant,

v.

Action Number: 08-BOR-1196

**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 June 25, 2008 for [REDACTED]. 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 June 25, 2008 on a timely appeal, filed April 1, 2008.

It should be noted here that the claimant's benefits have not 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 Mother (testified by phone)

Sharon Ellis, Family Support Specialist

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in imposing a third level sanction against Claimant's WV Works benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 13.9 and 15.7

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual § 15.7
- D-2 Case Comments (CMCC) from Rapids Computer System from September 11, 2006 – May 19, 2008
- D-3 Individual Comments (CMIC) from Rapids Computer System from September 20, 2006 – April 4, 2008
- D-4 Letter History (CNHS) from Rapids Computer System from July 18, 2005 – May 14, 2008
- D-5 Activity/Job Placement History (WPTN) from Rapids Computer System
- D-6 Support Payments Disbursement Screen (IQWH) from Rapids Computer System
- D-7 WV Works Sanction Summary (AIWW) and Component History (WPCH) from Rapids Computer System
- D-8 Participation Time Sheet for March 2008, Referral for Training/Services dated March 4, 2008 and Personal Responsibility Contract dated March 4, 2008

Claimants' Exhibits:

- C-1 None

VII. FINDINGS OF FACT:

- 1) Claimant applied for WV Works on March 4, 2008. Claimant signed a Personal Responsibility Contract (PRC) that date which read in part (D-8):

Assignment/Activity
Co-op child support [sic] beginning March 4, 2008
Report "all" changes 10 days beginning March 4, 2008
Participate work activity at least 20 hrs. week – Jr. beginning March 4, 2008

Time sheet by 5th beginning March 4, 2008

Under new policy Temporary Assistance for Needy Families (TANF) will be closed if you do not participate beginning March 4, 2008

Keep all appointments beginning March 4, 2008

45 day home visit to be made beginning March 4, 2008

Answer all job possibilities

██████████ was to begin her assigned activity of Spokes classes on March 7, 2008.

- 2) Claimant's caseworker, Sharon Ellis, was notified on March 7, 2008 by Claimant's Spokes sponsor that she had failed to show up for Spokes class that day. Claimant advised Ms. Ellis that she was having problems obtaining child care but had an appointment with ██████████ Child Care to apply for a subsidy (D-3).

Claimant called Ms. Ellis on March 13, 2008 to tell her that she would have child care that day and could start attending Spokes class. Claimant attended class the next day (D-3).

- 3) Ms. Ellis called Claimant's sponsor on March 17, 2008 and learned that Claimant did not show up for class that day. Claimant had by then missed six (6) days of Spokes classes. A third level WV Works sanction was proposed that date and a notification letter was issued March 18, 2008 advising Claimant of the possible sanction and of a Good Cause appointment scheduled for March 27, 2008 (D-2 and D-4).

Claimant left a voice mail message on Ms. Ellis's phone on March 26, 2008 asking for a form to complete for Good Cause. Ms. Ellis was unable to return Claimant's call that date as her cell phone was no longer taking calls (D-2).

Claimant failed to attend the Good Cause appointment on March 27, 2008 and a third level WV Works sanction was imposed closing Claimant's benefits (Claimant has received three (3) previous sanctions).

- 4) Claimant testified that she had problems getting child care for her son. She began looking for child care immediately after her application but all the day care centers were full and had waiting lists. She finally learned of the option of an in-home child care provider but it took two (2) weeks for her to get that lined up. By the time she did get a provider, she learned her case had been closed. She lives with her elderly grandmother who cannot care for a toddler and her mother works. The one day she did attend Spokes class, a friend watched her son but could only do so for the one day. Claimant stated her Spokes sponsor and Ms. Ellis were aware of her child care issues

Claimant stated the reason she did not attend her Good Cause appointment was because she never received the appointment letter. She received the closure letter and that is when she contacted Ms. Ellis for a hearing.

- 5) Claimant's mother, ██████████ testified by phone that Claimant never received an appointment letter, only a closure letter. She even called Ms. Ellis herself to tell her that an appointment letter did not come in the mail. Claimant lives with her grandmother,

only where she also gets her mail, and not her mother. However, Ms. [REDACTED] would have second hand knowledge of Claimant's failure to receive an appointment letter.

6) West Virginia Income Maintenance Manual § 13.9 A states:

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.

Once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed. Sanctions are applied in the form of benefit reductions and, for the 3rd or subsequent offense, termination of benefits. The amount of the benefit reduction is a fixed amount and is determined as follows:

1st Offense: 1/3 reduction in the benefit amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months

2nd Offense: 2/3 reduction in the benefit 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 benefit amount the client would be eligible to receive, prior to recoupment; if it was not already reduced by 1/3.

3rd and All Subsequent: Ineligibility for cash assistance for 3 months.

7) West Virginia Income Maintenance Manual § 15.7 A states:

Starting on the first day that WV WORKS benefits are received, a Work-Eligible Individual is subject to the work requirement. Therefore, the individual must be placed in a work activity as soon as possible. This placement should occur when the benefit is approved, concurrently with the initial assessment of the recipient's skill, prior work experience, and determination of employability. If the individual initially has a documented good cause for not participating, he is temporarily excused from participating. The Worker approves the benefit, enrolls the individual in the appropriate component, and makes any referrals needed to overcome the exemption or good cause reason. Any temporary exemption must be reviewed at least monthly to determine if the situation continues. If the Worker determines that the person is ready to participate at application, the Worker approves the benefit, enrolls the participant, requests any necessary support payments, and makes any necessary referrals. The participant must then begin his work activity as scheduled and complete all assigned hours for 5 consecutive assigned work days to meet his participation eligibility requirement. If he fails to participate as specified on his PRC, the WV

WORKS benefit is closed. If the Work-Eligible Individual reapplies, he must meet his assigned work hours for 5 consecutive assigned work days before the benefit for the subsequent month is approved. To ensure he is meeting his requirements, the Worker must follow up with the placement on a daily basis during the initial 5-day eligibility period, beginning on the first day assigned.

VIII. CONCLUSIONS OF LAW:

- 1) As dictated by policy, Claimant was required to participate in her assigned activity five (5) consecutive days to meet the participation requirements as indicated on the Personal Responsibility Contract. Failure to meet those requirements will result in the imposition of a sanction. Claimant had missed six (6) days when the sanction was proposed.
- 2) Claimant was given sufficient time to obtain child care and at one point had notified her caseworker that child care had been obtained. According to the case record, Claimant had contacted her caseworker the day before the Good Cause appointment asking for a “form” to complete for Good Cause indicating Claimant did have knowledge of the appointment. Any barriers preventing her from attending her assigned activity should have been discussed at the Good Cause appointment.
- 3) Claimant’s failure to participate in her assigned activity and her failure to attend her Good Cause appointment correctly resulted in the imposition of a third level WV Works benefits.

IX. DECISION:

It is the decision of the State Hearing to **uphold** the Department’s decision to impose a third level WV Works sanction on Claimant’s benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of June, 2008.

**Kristi Logan
State Hearing Officer**