



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

June 16, 2008



Dear Ms. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 12, 2008. Your hearing request was based on the Department of Health and Human Resources' action to reduce your West Virginia Works benefits based on the application of first and second program sanctions.

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 fails to 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 first offense, the sanction consists of a 1/3 reduction in the assistance check for three months. For a second offense, the sanction consists of a 2/3 reduction in the amount of the assistance check for three months. No sanction may be imposed for failing to adhere to any provision that was not specifically addressed on the PRC at the time the failure occurred. (West Virginia Income Maintenance Manual Sections 1.25 and 13.9)

Information submitted at your hearing demonstrates that you were non-compliant with a requirement specifically listed on your Personal Responsibility Contract.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to apply first and second sanctions to your West Virginia Works case.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Terri Mullins, FSS, DHHR

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

██████████  
**Claimant,**

v.

**Action Number: 08-BOR-1334**

**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 16, 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 June 12, 2008 on a timely appeal filed May 2, 2008.

It should be noted that the Claimant is not receiving continued benefits pending a hearing decision.

**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.

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  
Terri Mullins, Family Support Specialist, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 action to reduce the Claimant's benefits through the West Virginia Works Program based on the application of first and second sanctions.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Sections 1.25 and 13.9

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

**Department's Exhibits:**

- D-1 Notice of Decision dated March 27, 2008
- D-2 Notice of Decision dated March 26, 2008
- D-3 Notice of Decision dated April 4, 2008
- D-4 Notice of Decision dated April 3, 2008
- D-5 Case comments
- D-6 West Virginia Works Personal Responsibility Contracts signed December 14, 2007, January 8, 2008 and April 15, 2008
- D-7 Statement from Dr. Mark Hardway
- D-8 Notice of Eligibility Committee and/or Education Program Team Meeting
- D-9 School/Work Excuses
- D-10 Rights and Responsibilities section of Personal Responsibility Contract dated December 14, 2007

**Claimant's Exhibits:**

- C-1 Statement from Principal ██████████

**VII. FINDINGS OF FACT:**

- 1) The Claimant is a recipient of West Virginia Works benefits and signed Personal Responsibility Contracts (D-6) on December 14, 2007 and January 8, 2008 agreeing to keep all appointments made by or with the Family Support Specialist (FSS).

- 2) The FSS testified that the Claimant failed to attend an appointment on March 26, 2008 for work activity placement. The worker had planned to place the Claimant in a SPOKES job readiness class and arrange bus transportation. The worker imposed a first program sanction to be effective May 2008 and scheduled a good cause appointment for March 31, 2008 at the West Virginia Workforce building.
- 3) The Claimant was sent Notices of Decision dated March 26, 2008 (D-2) and March 27, 2008 (D-1) informing her of the sanction and the good cause appointment. Exhibit D-1 informed the Claimant that her West Virginia Works benefits would decrease from \$340 to \$227 as a result of the sanction.
- 4) The Claimant telephoned the FSS on March 27, 2008 stating that she had an extended visit at the [REDACTED] facility with her son and was unable to attend the March 26, 2008 appointment for activity placement. In addition, the Claimant reported that she would be unable to attend the March 31, 2008 appointment because her daughter was in trouble at school and she had a meeting with school officials. The worker rescheduled the good cause appointment for April 1, 2008 at the West Virginia Workforce building and stated that the Claimant would also be enrolled in the SPOKES program at that time.
- 5) The Claimant failed to attend the April 1, 2008 appointment for good cause/activity placement and did not contact the worker to notify her that she would be unable to attend. Therefore, the worker imposed a second program sanction.
- 6) The Department sent Notices of Decision to the Claimant dated April 3, 2008 (D-4) and April 4, 2008 (D-3). Exhibit D-3 states that the Claimant's West Virginia Works benefits would decrease from \$340 to \$114 effective May 2008 as the result of a second program sanction. The letters indicate that a good cause appointment was scheduled for April 7, 2008.
- 7) The Claimant telephoned the worker on May 2, 2008 in regard to the decrease in benefits. The Claimant stated that her children were having behavioral problems and her son was under a doctor's care. The worker testified that the SPOKES class was conducted during daytime hours when the Claimant's children would be in school and that the Claimant would have had public transportation to the class. The Claimant failed to attend the April 7, 2008 good cause appointment, however the worker testified that the Claimant did start the SPOKES class on April 14, 2008.
- 8) The Claimant provided a statement from Dr. [REDACTED] dated April 9, 2008 (D-7) that indicates her son had been under Dr. [REDACTED] care for medication modification since April 3, 2008. She provided the Department with a notice (D-8) indicating that she had a meeting at [REDACTED] Middle School on April 24, 2008 in regard to her son, and statements from [REDACTED] Medical Center (D-9) indicating that she was under a doctor's care on April 21, 2008 and April 23, 2008.
- 9) The Claimant testified that her son was having behavioral problems and the school required him to stay home for a period of time. She provided Exhibit C-1, a letter from her son's principal, indicating that her son had made "dangerous comments" at the school on March 19, 2008 and that the child was required to stay home from March 19 to April 10 until his

medication could be obtained. The Claimant testified that she had to stay at home with her son during this period.

10) Policy found in West Virginia Income Maintenance Manual Section 1.25, T, provides 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.

11) West Virginia Income Maintenance Manual Section 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.

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.

Reasons for which good cause can be established are addressed in Section 13.10 of the Income Maintenance Manual.

12) West Virginia Income Maintenance Manual Section 13.9, B:

#### CONCURRENT SANCTIONS

When an additional offense for the same or a different requirement occurs during a sanction period, the next level of sanction is imposed, after proper notification. The client must also be given the opportunity to establish good cause, regardless of the length of time remaining for the sanction that is already in effect. Sanctions may, therefore, run concurrently.

When 2 or more offenses, by the same individual or by different individuals occurs prior to the Worker's having mailed the advance notice to the client, it is treated as if only one offense has occurred. Even though all offenses must be addressed in the client notification, only one sanction is imposed. However, if an additional offense, by the same individual or by a different individual(s), occurs after the Worker has mailed the client notification of the preceding offense, an additional sanction may be imposed

after proper notification and the opportunity to establish good cause.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that when a member of the West Virginia Works benefit group fails to comply with the requirements found on his or her Personal Responsibility Contract, a sanction must be imposed unless the worker determines that good cause exists. The penalty for a first offense is a 1/3 reduction in the assistance check for three months and the penalty for a second offense is a 2/3 reduction in the assistance check for three months.
- 2) The Claimant signed Personal Responsibility Contracts in December 2007 and January 2008 agreeing to keep all appointments made by or with her Family Support Specialist. While the Claimant has verified that her son was having behavioral problems- and that he was required to stay home from school- during the time of her March 26, 2008 and April 1, 2008 appointments for SPOKES placement, she failed to contact the worker prior to the appointments to inform her she could not attend. In addition, she failed to appear at appointments to establish good cause for her non-attendance.
- 3) As the Claimant was non-compliant with requirements listed on her Personal Responsibility Contract, the Department acted correctly in imposing first and second sanctions to her West Virginia Works case.

**IX. DECISION:**

The Department's action to apply first and second sanctions to the Claimant's West Virginia Works case is **upheld**.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 16th Day of June 2008.**

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**Pamela L. Hinzman  
State Hearing Officer**