



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 W Washington St
Charleston, WV 25313
304-746-2360

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 4, 2008



Dear Ms. [REDACTED]:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 10, 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: 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 and all subsequent offenses, the sanction consists of the ineligibility for a check for 3 months. 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 § 13.9).

The information which was submitted at your hearing revealed that the Department was correct in imposing the sanction

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,

Jennifer Butcher
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Alice Kayrouz, FSS

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

██████████
Claimant,

Action Number: 08- BOR-1348

**v.
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 August 29, 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 10, 2008 on a timely appeal, filed May 6, 2008.

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
Alice Kayrouz, Family Support Specialist

Presiding at the Hearing was Jennifer Butcher, 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's decision to impose a third level sanction against Claimant's WV Works benefits was correct.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 13.9, 24.3, 24.4, and 24.8

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification of proposed sanction dated March 18, 2008
- D-2 West Virginia Personal Responsibility Contract (PRC) signed and dated December 4, 2007
- D-3 West Virginia Income maintenance Manual Chapter 24.3, 24.3.1.a, 24.3.2, 24.3.C.1, 24.4.A, 24.8 A&B.
- D-4 Summary of Fair Hearing dated June 10, 1008
- D-5 Documentation requested by Hearings Officer during hearing of dates client was in office.

Claimants' Exhibits:

- C-1 Copies of Time sheets for the months December 2007, January, February, and April 2008

VII. FINDINGS OF FACT:

- 1) Claimant's caseworker, Joseph Pawlowski, mailed Claimant a third level sanction closure letter March 18, 2008 for failure to meet the terms of the Personal Responsibility Contract hereinafter (PRC) by failing to participate with Works Program and failure to appear for the Good Cause interview that was scheduled for her on March 24, 2007. Claimant's PRC was signed at application on December 4, 2007 reads in part:(Exhibit D1)

Assignment/Activity

Report changes timely (within 10 days) beginning December 4, 2007
Attend Spokes orientation @ Garnet Monday December 10, 2007 at 8:30AM
Began Spokes job readiness classes at BEP Tuesday December 11, 2007 at 8:30am
Turn in timesheets by 5th [day] of following month beginning December 4, 2007
Perform 20 hours a week minimum as per policy begin date December 12, 2007.

- 2) A third level WV Works sanction was proposed for Claimant's failure to participate with Works Program. A notification letter dated March 18, 2008 read in part (Exhibit D-1)

Your WV Works will stop. A third-level sanction is applied due to failure to comply with the requirements of the PRC.

This sanction is being applied due to the failure of [REDACTED] to meet the terms of the PRC by failing to participate with Work Program.

We have scheduled a Good Cause interview for [REDACTED] on March 24, 2008 at 10:30 at the office address listed above.

- 3) Claimant did not attend the Good Cause appointment on March 24, 2008. A third level sanction was imposed resulting in ineligibility of WV Works for three months. (Exhibit D-1)
- 4) Alice Kayrouz testified the claimant failed to complete 20 hours per week in her job activity in the month of January and failed to turn in her time sheets by the 5th of the following month.
- 5) Claimant testified she reported to her worker in the latter part of January showing good cause for not having the required hours in the month of December due to illness of mother.
- 6) Claimant stated her instructor at Spokes delivered the time sheets each month for her to her worker at DHHR.
- 7) The claimant went on to testify that she stated she brought in papers showing good cause for February and the worker did not act on the information. Additionally in March she states she came in to the office to report a change of address due to being evicted from her apartment in February. According to Ms Kayrouz no documentation was in the record of the eviction papers but she was in on March 10, 2008 to report a change of address to [REDACTED].
- 8) Department sent notification on March 18, 2008 to the above address of closure and notification of the scheduled Good Cause interview to be held on March 24, 2008.(Exhibit D-1)
- 9) Claimant stated she gave her brother's address on [REDACTED] as a temporary mailing address while she was between places to live. She also stated she was staying in [REDACTED] County in the month of March and returned in April to start back to school. That was the reason she did not get the appointment letter.

10) 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.

11) West Virginia Income Maintenance Manual § 24.3 in part states:

Each adult and emancipated minor who receives WV WORKS benefits and non-recipient Work-Eligible Individual must meet a work requirement at a minimum rate of participation. The work requirement does not necessarily mean that the participant must be employed. Work, however, is the focus of WV WORKS.

A single Work-Eligible parent with a child under age 6 meets the work participation requirement by participating an average of 20 hours/week.

12) West Virginia Income Maintenance Manual § 24.3.2 in part:

All missed time whether excused or unexcused, must be made up within the month in which it is missed.

Excused absences of up to 2 days/month, not to exceed a maximum of 10 days in the 12-month period, including the current and the preceding 11-months, may be counted as hours worked in that month.

13) West Virginia Income Maintenance Manual § 24.3.C.1 in part:

1. Methods Of Documenting Participation Hours :

All hours of participation in activities must be verified. The Participant Timesheet, DFA-TS-12, is the standard timesheet used to document

participation. When used, it is given to providers to report attendance and satisfactory progress in the activity. These timesheets may also be given to the client to have providers complete. Some employers/sponsors have their own timesheets. These are acceptable means of verification as long as these timesheets provide the necessary information and are signed by the site supervisor. Documentation is required and must be available from the activity site at least every two weeks for all activities except for Job Readiness and Job Search Assistance in which documentation is required and must be available daily. Monthly timesheets must be filed in participants' case records.

14) West Virginia Income Maintenance Manual § 24.8

Job Search and Job Readiness Assistance means the act of seeking or obtaining employment and preparation to seek or obtain employment. For federal participation purposes job search and job readiness assistance is a single component. This activity must be supervised no less frequently than daily.

Daily supervision does not necessarily mean daily in person. The case manager or other responsible party provides oversight; knows what the participant is supposed to be doing and is responsible for ensuring that the participant is actually performing these tasks. Contact may be by phone or electronic where available.

NOTE: There is a limit on the number of weeks that Job Search and Job Readiness Assistance may be used to meet the client's work requirement. The limit is 6 weeks per federal fiscal year, no more than 4 of which may be consecutive. If a client participates longer than this period, the participation hours will not count in meeting the work requirement.

For Job Search and Job Readiness, a week of participation may begin any day of the week and ends seven days later, regardless of the number of hours the individual participated during those seven days.

A. JOB READINESS

Job Readiness must be a structured and supervised program and includes two types of activities.

- Preparation for seeking or obtaining employment. This includes activities such as preparing a resume or job application, training in interviewing skills, instruction in work place expectations, training in effective job seeking, and life skills training.

- Substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable.

B. JOB SEARCH

Job Search must be a structured and supervised activity which may include the following:

- Making contacts with employers by phone
- Making contacts in person

- Use of the Internet to learn of suitable job openings, applying for jobs, and interviewing for jobs

However, the travel time between multiple interviews may be counted as participation.

Structured Job Search follows a recognized Job Search model that is provided by a contractor, another agency, or by WV WORKS staff. Existing programs offered through WORKFORCE West Virginia, Department of Education, and other agencies must be used first when services are available without cost. These providers are not reimbursed, unless all existing training positions have been filled and it is necessary to create additional positions for WV WORKS clients, or if there is a contractual agreement between DHHR and a grantee.

SPOKES and EXCEL classes fall under job search and job readiness assistance activities.

Referrals to the SPOKES program are limited to those participants who have at least a 4th grade academic level in reading and math. Exceptions to this requirement may be made only after WV WORKS staff consults with and receives approval from the local SPOKES staff.

VIII. CONCLUSIONS OF LAW:

- 1) In accordance with manual policy the notification letter was sent to Claimant of the proposed third level WV Works sanction and the Good Cause appointment date for March 24, 2008 that was issued on March 18, 2008 to the current address the Claimant reported on March 10, 2008.

- 2) According to policy the Personal Responsibility Contract is entered into by the worker and the client. The Claimant must agree upon the terms of the contract set up by the worker and follow these assignments and activities in order to become self sufficient.

- 3) It was the claimant's responsibility to participate in a work activity at least 20 hours per week, to provide time sheets by the fifth (5th) of the following month and to report changes within ten (10) days according to her Personal Responsibility Contract. The correct action was taken by the Department to impose the third sanction.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the decision of the Department to impose a third level sanction against 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 4th Day of September, 2008.

**Jennifer Butcher
State Hearing Officer**