

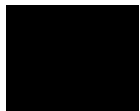


State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

November 6, 2008



Dear 

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 21, 2008. Your hearing request was based on the Department of Health and Human Resources' reduction of your WV Works benefits due to a second-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: Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC (Personal Responsibility Contract) after signature, results in imposition of a sanction against the AG. 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 (West Virginia Income Maintenance Manual, Chapter 1.25.T).

The information 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  
Emogene Davis, Family Support Specialist

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

██████████  
**Claimant,**

v.

**Action Number: 08-BOR-1611**

**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 November 6, 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 July 21, 2008 on a timely appeal, filed June 23, 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 wife  
Emogene Davis, Family Support Specialist  
Tim Bowens, Family Support Supervisor

\*not present for the entire hearing

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 the Department was correct to impose a sanction reducing WV Works benefits.

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

West Virginia Income Maintenance Manual, Chapters 1.25.T; 13.9; 24.4.D

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

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

- D-1 WV Works – Personal Responsibility Contract (DFA-PRC-1)
- D-2 CWEP Individual Participation Agreement (DFA-CWEP-1)
- D-3 Notification of WV Works reduction due to sanction and Good Cause appointment, dated June 2, 2008
- D-4 West Virginia Income Maintenance Manual, Chapter 1.25.T
- D-5 West Virginia Income Maintenance Manual, Chapter 24.4.D
- D-6 West Virginia Income Maintenance Manual, Chapter 13.9

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

- 1) On June 2, 2008, the Department notified the Claimant that his WV Works check would be reduced due to a sanction, and scheduled a Good Cause appointment with the Claimant (Exhibit D-3). This notice states, in pertinent part:

YOUR WV WORKS WILL DECREASE FROM \$227.00 TO \$114.00 EFFECTIVE 7/1/08. A SECOND SANCTION IS APPLIED DUE TO FAILURE TO COMPLETE AN ACTIVITY. A SANCTION WILL BE APPLIED TO YOUR ASSISTANCE GROUP EFFECTIVE 7/08. THIS IS

THE SECOND SANCTION AND WILL CONTINUE FOR 3 MONTHS. YOUR WVW [sic] WORKS BENEFIT AMOUNT BEFORE ANY REPAYMENT IS TAKEN OUT WILL BE REDUCED BY 2/3.

- 2) The Department worker and the Claimant completed a Personal Responsibility Contract (PRC) on October 9, 2007 (Exhibit D-1). This agreement lists specific assignments or activities for the Claimant as follows, in pertinent part:

CONTINUE CWEP ASSIGNMENT AT [REDACTED] [sic]  
116 HRS PER MO – 27 HRS PER WEEK.

The form additionally lists several statements, including:

\* I understand that if I do not cooperate/participate with all the assignments/activities listed above that I will be penalized.

- 3) Testimony and evidence from the Department revealed that the Claimant was assigned to the Community Work Experience Program (CWEP). An agreement was completed and signed by the Department worker and the Claimant (Exhibit D-2), which outlined the specifics. The Claimant was assigned to CWEP with the [REDACTED] County Board of Education, specifically working at [REDACTED].
- 4) Testimony from Tim Bowens, Family Support Supervisor for the Department, explained that the Assistant Principal for [REDACTED] requested that the Claimant be removed from his CWEP assignment. The reason for this request was due to a complaint from the parent of a student at [REDACTED]. The complaint alleged that the Claimant sent inappropriate e-mails to a seventeen (17) year old student.
- 5) The West Virginia Income Maintenance Manual, Chapter 13.9 (Exhibit D-6) 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) Testimony from the Department confirmed that the Good Cause hearing was held as scheduled, on June 10, 2008. During the Good Cause hearing, no evidence was provided by the Claimant to establish good cause for being released from his CWEP assignment. The Department worker also noted that during a June 16, 2008 home visit with the Claimant, she offered another chance to the Claimant to provide evidence of good cause. Because good cause for being released from his CWEP assignment was never provided, the Department imposed the second-level sanction as noticed on June 2, 2008 (Exhibit D-3).

- 7) The Claimant explained that he did his assignment as requested. He denied involvement in the school incident. He testified that he was told that there would be an investigation into the alleged incident, but did not know of the results.
- 8) Testimony from the Family Support Supervisor indicated that [REDACTED] did an investigation, not the Department, and that they asked that the Claimant not return to a CWEP assignment at the school.

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

- 1) The West Virginia Income Maintenance Manual, Chapter 1.25.T, states, in pertinent part:

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 AG. 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) The Department clearly showed the expectation that the Claimant participate in his CWEP assignment at [REDACTED]. This was noted in both the PRC and the CWEP agreement. The Department gave the Claimant two separate opportunities – one formal and one informal – to provide evidence of good cause, but none was provided by the Claimant. The Department was correct to impose a sanction based on the Claimant being released from his CWEP assignment without good cause.

### **IX. DECISION:**

It is the decision of the State Hearings Officer to **uphold** the action of the Department to apply a 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 November, 2008.**

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**Todd Thornton  
State Hearings Officer**