



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 W Washington St.
Charleston, W V, 25313
304-746-2360 ext 2227**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

November 17, 2008



Dear Ms. [REDACTED]:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 26, 2008. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your West Virginia Works Benefits (cash assistance) based on the application of a first (1st) 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 West Virginia Works Program is based on current policy and regulations. Some of these regulations state that 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 first offense, the sanction consists of one third (1/3) reduction in the check amount 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 indicates you failed to comply with the requirements on your PRC.

It is the decision of the State Hearings Officer to uphold the proposal of the Department to applying a first level sanction in your WV WORKS case effective December 1, 2008.

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,

v.

Action Number: 08-BOR-1664

**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 17, 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 August 26, 2008 on a timely appeal, filed June 19, 2008.

It should be noted here that the Claimant's benefits have been continued pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled West Virginia Works (hereinafter 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
Alice Kayrouz, Family Support Specialist, DHHR

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 to be decided is whether or not the Department was correct in its proposal to reduce the Claimant's benefits and services through the WV WORKS Program based on the imposition of a 1st sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 24.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Appointment letter for the Personal Responsibility Contract (PRC) dated June 6, 2008
- D-2 Notification of implementation of First Sanction dated June 18, 2008
- D-3 Self-Sufficiency Plan Specific Assignments and signature page of the PRC dated August 9, 2007
- D-4 Copy of the Orientation To WV Works signed and dated September 29, 2004
- D-5 West Virginia Income Maintenance Manual Section 24.4
- D-6 Hearing request dated June 26, 2008
- D-7 Summary of hearing dated August 26, 2008

Claimants' Exhibits:

- C-1 Notification letter dated June 3, 2008

VII. FINDINGS OF FACT:

- 1) The Claimant was notified on June 5, 2008, of an appointment scheduled with her WV Works Worker for June 12, 2008, (Exhibit D-1) to update her Personal Responsibilities Contract (hereinafter PRC). According to policy (Exhibit D-5) this is required at the Claimant's twelfth (12th), twenty-fourth (24th), thirty-sixth (36th) and forty-eighth (48th) month of receiving benefits.
- 2) The Claimant was sanctioned on June 18, 2008, (Exhibit D-2) for failure to appear for the required Forty-eight (48) month review to update of her PRC and a Good Cause appointment was set for June 26, 2008, to discuss her absents from the June 12th appointment.
- 3) The Claimant contacted her worker to inform her she would not be attending the Good Cause appointment but did request a fair hearing because she was not notified of the June 12, 2008 appointment.
- 4) The Claimant testified she had received a letter dated June 3, 2008, (Exhibit C-1) informing her of the decrease in benefits due to an ineligible person in the household. She also stated she received the sanction letter dated June 18, 2008, but she did not receive a letter dated June 5, 2008 for the appointment on June 12, 2008.
- 5) The Claimant stated she had always completed all requirements from her PRC, such as turning in all time sheets timely, attending classes as required, and attending all appointments except the one in question. She stated some of the requests from the Department have been very hard to complete. The Claimant expressed her opinion that the workers and the Department do not understand the hardship of some of the requests and requirements a WV Works client must follow in order to receive assistance.

- 6) Ms. Kayrouz testified the Claimant signed and dated her PRC on August 9, 2007, agreeing to cooperate with the WV Works Program by keeping all appointments.
- 7) The PRC is a plan to help the Claimant become financially independent and self-sufficient. The Claimant is required to sign the contract, along with her worker. The Claimant's signature means that the Department of Health and Human Resources (DHHR) agrees to assist in any way possible towards her goal (Exhibit D-4).
- 8) West Virginia Income Maintenance Manual Chapter 24.4. J Periodic Self-Sufficiency Evaluations 12/24/36/48 Months:

These self-sufficiency evaluations are required to be conducted in either one of two ways:

- Face-to-face meeting with the client; or
- A Supervisor/Worker meeting to review the case.

NOTE: Failure, without good cause, of the client to attend or otherwise cooperate in the scheduled evaluations results in application of a sanction only when a face-to-face meeting is scheduled. It is suggested that the evaluations be listed specifically on the PRC to avoid questions about notification of the requirement. However, the general statement on the PRC form about keeping all appointments will usually serve for application of a sanction.

- 9) West Virginia Income Maintenance Manual Chapter 24.17 Appendix F- Personal Responsibility Contract:

I understand that I am required to attend any meetings or appointments related to my eligibility for cash assistance and my self-sufficiency goals. These meetings or appointments include, but are not limited to, home visits, periodic review of my eligibility for benefits, assessment of my skills and progress in meeting my goals and becoming self-sufficient, employment interviews scheduled by or for me, etc. **or I may be sanctioned.**

- 10) West Virginia Income Maintenance Manual Chapter 13.9 WV Works Sanctions:

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.

1st Offense- 1/3 reduction in the check amount for 3 months.

2nd Offense- 2/3 reduction in the check amount for 3 months.

3rd Offense and all subsequent offenses - Ineligibility for cash assistance for 3 months or until compliance, whichever is later.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that failure, without good cause, to adhere to the responsibilities contained in Part 1 or Part 2 of the PRC results in imposition of a sanction against the benefit group. A sanction must be imposed unless the worker determines that good cause exists.
- 2) The evidence reveals that the Claimant failed to appear for two (2) scheduled appointments. While there is evidence to indicate that the Claimant was notified of the appointments, convincing testimony by the Claimant has indicated she has appeared for all of her other appointments when notified.
- 3) The Claimant received the Reduction of Benefits letter dated June 3, 2008 and responded to the Good Cause letter dated June 18, 2008 by informing the WV Works Worker she was not going to appear for the Good Cause appointment, but instead requested a fair hearing. This was in violation of her PRC by not attending all scheduled appointments.

IX. DECISION:

After reviewing the information presented during the hearing, and the applicable policy and regulations, I am ruling to **uphold** the proposal of the Department to apply a first level sanction to your WV WORKS benefits. The first level sanction will be imposed effective December 1, 2008.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of November, 2008.

**Jennifer Butcher
State Hearing Officer**