



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

May 21, 2008



Dear Ms. 

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 29, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to impose a second 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 second offense, the sanction consists of 2/3 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 revealed that the Department failed to give proper adverse action notice between the proposition of the sanction and the imposition of the sanction.

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

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Carol Groves, Family Support Specialist

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

Claimant,

v.

Action Number: 07-BOR-2518

**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 April 29, 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 April 29, 2008 on a timely appeal, filed November 16, 2007.

It should be noted here that the claimant's benefits have 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 Grandmother
██████████ Claimant's Son
Carol Groves, Family Support Supervisor
Laura Cochran, 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 the Department's decision to impose a second level sanction against Claimant's WV Works benefits was correct.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 13.9 and 13.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Form IG-BR-29
- D-2 Notification Letter dated November 7, 2007
- D-20 Personal Responsibility Contract dated October 19, 2007
- D-24 Case Comments and Individual Comments from Rapids Computer System from October 19, 2007 - April 7, 2008
- D-41 Department's Hearing Summary
- D-42 Self-Sufficiency Appraisal

Claimants' Exhibits:

- C-5 Doctor's Excuse from ██████████ and Doctor's Excuse from Dr. ██████████ dated November 3, 2007
- C-9 Subpoena to Appear on November 28, 2007

VII. FINDINGS OF FACT:

- 1) Claimant signed a Personal Responsibility Contract (PRC) at application on October 19, 2007. It read in part (D-20):

Assignment/Activity

Return completed self-sufficiency appraisal by October 22, 2007
Report changes timely (within 10 days) beginning October 19, 2007
Continually look for work beginning October 19, 2007
Spokes class, DHHR building, 8:30 am beginning October 22, 2007
Attend Spokes class 5 days a week beginning October 19, 2007
Turn in timesheets by 5th [day] of following month beginning October 19, 2007

- 2) Claimant had failed to start Spokes class beginning October 22, 2007 or provide good cause for her failure to attend. A first level WV Works sanction was imposed on November 6, 2007 when Claimant failed to attend her Good Cause appointment that date. The second level WV Works sanction was proposed on November 6, 2007 as Claimant was still not attending Spokes class nor had she provided a doctor's excuse (D-24 and D-41). A notification letter dated November 7, 2007 was issued and read in part (D-2):

Your WV Works will decrease from \$301 to \$101 effective December 1, 2007. A second 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 attend an assigned activity.

We have scheduled a Good Cause interview for [REDACTED] on November 9, 2007 at 10:00 at the office address listed above.

Claimant did not attend the Good Cause appointment on November 9, 2007. A second level sanction was imposed on Claimant's WV Works benefits.

- 3) Claimant testified that she had provided her caseworker, Laura Cochran, with a doctor's excuse exempting her from work from October 22, 2007 – November 28, 2007 (C-5). Claimant stated she sent this excuse in November 3, 2007. Claimant stated she has chronic depression that prevented her from leaving her home at the time of the Good Cause appointment. She referred to the self-sufficiency appraisal (D-42) in which she indicated she had emotional problems saying the Department was aware of her medical conditions. She also stated some of her emotional problems stemmed from an assault that occurred while she was living in [REDACTED] (C-9).
- 4) Ms. Cochran testified that she did not receive Claimant's doctor excuse (C-5) until November 30, 2007, after the imposition of the second level sanction (D-24). She could not lift the sanction until it had expired.
- 5) 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.

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

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.

7) West Virginia Income Maintenance Manual § 13.10 states:

Failure or refusal to comply, without good cause, results in imposition of a sanction. When the Worker discovers the failure or refusal, a notice of adverse action must be issued. When a letter is mailed scheduling the good cause interview, the Worker must allow no less than 7 calendar days. This period begins the day following the date the letter is requested in RAPIDS, or the day following the date a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the client. If the appointment is scheduled for a date prior to the 7 calendar days, the participant and the Worker must agree on the appointment date.

VIII. CONCLUSIONS OF LAW:

1) By the caseworkers account, Claimant had failed to provide a doctor's excuse exempting her from her assigned activity of attending Spokes class prior to the imposition of the second level sanction. However, the second level sanction was proposed on November 6, 2007 with the notification letter advising Claimant of the Good Cause appointment mailed on November 7, 2007 that was scheduled for November 9, 2007. Claimant was not given adequate adverse action notice of seven (7) calendar days from the date of the proposition of the second level sanction and the Good Cause appointment.

- 2) Since Claimant was not given adequate notice of the Good Cause appointment as dictated in policy, a second level WV Works sanction should not have been imposed against Claimant's benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the decision of the Department to impose a second 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 21st Day of May, 2008.

**Kristi Logan
State Hearing Officer**