

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**BOARD OF REVIEW**

**ORDER OF DISMISSAL**

**IN RE:**

██████████  
**Claimant,**

vs.

**BOR Action # 07-BOR-2558**

**West Virginia Department of Health & Human Resources,**

**Respondent.**

On November 28, 2007, the Claimant filed a written appeal to contest the Department's proposal to terminate his WV Works benefits based on the imposition of a third (3<sup>rd</sup>) Sanction. It should be noted that the Claimant's written appeal includes the following mailing address – ██████████ ██████████

On January 4, 2008 a Notice of Hearing was sent to the Claimant via First Class mail to the address provided on his written appeal. This Notice was returned from the U.S. Post Office indicating the address was insufficient for delivery. The Claimant's mailing address was confirmed by the Department and a Notice of Abandonment was sent to the Claimant on January 23, 2008 upon failing to appear for his hearing.

On February 1, 2008, the Claimant's "Good Cause" letter was received and the Claimant indicated he did not receive the Notice of Hearing. He further noted that his mailing address is - ██████████ ██████████. Good Cause was granted and another hearing was scheduled on March 18, 2008 via a Notice of Hearing dated February 20, 2008.

The February 20, 2008 Notice of Hearing was not returned by the Post Office, however, the Claimant failed to appear for his March 18, 2008 hearing. A Notice of Abandonment was sent to the Claimant on March 19, 2008 (also not returned by the post office).

On March 28, 2008, the Board of Review received written correspondence from the Claimant wherein he indicates – "for some reason I've not yet received my hearing date." He further indicates "that DHHR don't have my address correct" and he requested that his notice be sent via certified mail.

The first Notice of Hearing was returned due to the Claimant providing insufficient address information. Although benefits were being received by the Claimant at the address provided in his appeal, the scheduling notice was returned by the post office and good cause was granted. Upon confirmation of the Claimant's mailing address provided in his February 1, 2008 good cause letter, the Claimant's hearing was rescheduled. The second scheduling notice (dated February 20, 2008) was NOT returned by the post office yet the Claimant failed to appear. While the Claimant's correspondence is an attempt to indicate he neither received the second hearing notice nor the abandonment letter, these documents were NOT returned by the post office as undelivered. Furthermore, the Department confirmed the Claimant's mailing address with the Board of Review.

Pursuant to the West Virginia Department of Health and Human Resources, Common Chapters Manual, 780.D.6 (Hearing Abandoned), "good cause" can be established for failure to appear at a scheduled hearing when one of the following criteria has been met: (a) Death in the family, (b) Personal illness or injury and (c) Sudden and unexpected emergencies.

Whereas the Claimant's reason for requesting another hearing date is incredible and unconvincing, I find the Claimant **ABANDONED** the scheduled hearing and this matter is therefore **DISMISSED**.

It is hereby **ORDERED** that the Claimant's appeal before the Board of Review is **DISMISSED**.

Entered this 31<sup>st</sup> day of March, 2008.

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Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review