

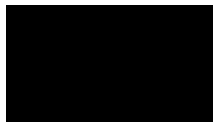


State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 W Washington St
Charleston, WV 25313
304-746-2360 EXT 2227

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 4, 2008



Dear Ms [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 29, 2008. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your West Virginia Works benefits (cash assistance) based on the application of the third 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 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 first offense, the sanction consists of 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 revealed that 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 terminate your West Virginia Works benefits for the duration of the third sanction which is three months or until compliance.

Sincerely,

Jennifer Butcher
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review

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

██████████

Claimant,

v.

Action Number: 07-BOR-2583

**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 January 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 January 29, 2008 on a timely appeal, filed October 30, 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
Alice Kayrouz, IM
Rich Radford, IM

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 was correct in its proposal to terminate the Claimant's benefits and services through the WV Works Program based on the imposition of a 3rd sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 13.9, 15.7 and 24.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Department Closure letter Dated 10/09/2007
- D-3 Request for hearing and continued benefits while waiting for hearing decision.
- D-4 WV Works Personal Responsibility Contract (PRC)
- D-5 September 2007 Time Sheet
- D-6 WV Income Maintenance Manual Chapter Sections 13.9,15.7 B and 24.3

Claimants' Exhibits:

- C-1 Doctor appointments scheduled for Claimant from Progress Strategies

VII. FINDINGS OF FACT:

- 1) On September 7, 2007 the Claimant signed her Personal Responsibility Contract, hereinafter (PRC), agreeing to "Comply with request from DHHR and BCSE (Exhibit D-4).
- 2) Claimant was to attend Spokes classes at 20 hour per week for 4 weeks as per page 4 of the PRC and to submit time sheets by the 5th of the following month (Exhibit D-4).

- 3) Claimant submitted her September Time Sheet to the Department on September 5, 2007 showing one excused absence and three days of participation totaling 13 hours of an activity for the month of September.
- 4) Department placed a third sanction on claimant's case for non participation in an activity. The Claimant was notified by letter dated October 9, 2007 (Exhibit D-2).
- 5) According to testimony from Department (Exhibit D-1) a good cause appointment was held on October 18, 2007 with caseworker and supervisor.
- 6) Claimant testified she had doctor appointments and that was the reason why she did not attend Spokes. Department gave her another day to provide the doctor excuses for the month of September 2007, but she did not submit the excuses which would warrant lifting her sanction.
- 7) According to Department's testimony WV Income Maintenance Manual Chapter 24.3 B. Absences states: Workers must determine whether absences are excused or unexcused.
- 8) In section B2 of Chapter 24.3 paragraph 2 Individual Absences States:
Excused absences of up to 2 days/month, not to exceed a maximum of 10 days in a 12-month period, including the current and the preceding 11-months, may be counted as hours worked in that month.
- 9) The worker is required to have documentation in order to determine if it is an excused or unexcused absence.
- 10) Claimant testified she did not attend Spokes Classes because they did not teach them anything and she chose not to attend and go to [REDACTED] By making this decision she was not going to receive the waiver for Child Care and she did not have the money to pay the waiver and ended in living in a shelter and not attending class at [REDACTED] as well. Claimant states her family was more important and she admitted she did not attend class.
- 11) Claimant stated she had copies of all her doctor visits and she turned the appointments in to worker and she did not understand why the Department did not have them with her file.
- 12) Department noted in their response regardless of her doctors excuses she still only attended class only three days and needed to have 20 hours per month in an activity to be in compliance with policy and her PRC.

- 13) Claimant stated she was not able to comply with the hours for the activity due to her illness.
- 14) Department responded by asking claimant if she had told the Department at Orientation she was not mentally able to complete her 20 hour activity? Claimant stated they did not ask her.
- 15) According to the PRC page 2 paragraph 3 regarding Disabilities states:
I understand if I have a learning disability or a physical or mental condition, I may have legal rights under the Americans with Disabilities Act (ADA). If the ADA applies to me, and I cannot do something DHHR asks me to do DHHR can:
 Help me do it or change what I have to do.
 Call or visit me if I am unable to come to the DHHR office, and
 Tell me what DHHR forms and letters mean.
I also understand I have the option to let my caseworker know if I suffer from a physical, mental, or learning disability that may make it hard for me to participate in an activity or work requirement.
- 16) Policy found in Chapter 1.25, T, of the West Virginia Income Maintenance Manual provides that the PRC form (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the WV WORKS AG (assistance group) and the Worker. Failure, without good cause, to adhere to the responsibilities contained in Part 1 of the PRC results in imposition of a sanction against the benefit group. Refusal or other failure, without good cause, to adhere to the self-sufficiency plan (Part 2 of the PRC) results in imposition of a sanction against the benefit group.

CONCLUSIONS OF LAW:

- 1) Policy states that failure, without good cause, to adhere to the responsibilities contained in Part 1 or 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) Chapter 24.3-B2 paragraph 2, regarding excused absences, 2 excused absences per month not to exceed a maximum of 10 days in a 12 month period. Even with the two excused absences the Claimant stated she had and turned in. She did not fulfill her obligation of the PRC and attend an approved activity for 20 hours per month.
- 3) The evidence reveals the Claimant had read or acknowledged the Rights and Responsibilities of the PRC before signing her name. At that time the Claimant needed to make the Department aware of her mental condition and other activity could have been arranged. Without the Department's knowledge of a client's needs the Department can not assist them in achieving their goals.

IX. DECISION:

After reviewing the information presented during the hearing, and the policy and regulations, I am ruling to uphold the Department proposal to apply the third sanction to your WV Works benefits. The third sanction will run for the three months as required by policy.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this Day of , 2008.

**Jennifer Butcher
State Hearing Officer**