



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
PO Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 7, 2008



Dear [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 28, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your West Virginia Works benefits (cash assistance) based on the application of a second (2nd) level sanction.

In arriving at a decision, the State Hearing 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 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 submitted at your hearing demonstrates that you failed to comply with the requirements on your PRC. Specifically, you failed without good cause to keep your appointment with Vocational Rehabilitation on December 20, 2007, and failed to reschedule.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department in applying a second (2nd) level sanction in your WV WORKS case.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Vanessa Miller, [REDACTED] DHHR

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

Claimant,

v.

Action Number: 08-BOR-579

**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 February 28, 2008 [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 hearing convened on February 28, 2008 on a timely appeal filed January 4, 2008. Note: This hearing was originally scheduled January 31, 2007 but was continued at request of the Department.

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
Vanessa Miller, ██████████ DHHR, Family Support Specialist
Anisha Eye, ██████████ DHHR, Family Support Specialist

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether 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 2nd sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.25, 13.9 & 24.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Personal Responsibility Contract dated July 17, 2007
D-2 Appointment notice from DHHR
D-3 Appointment notice dated December 10, 2007 from Rehabilitation Services
D-4 Copy of email dated December 20, 2007
D-5 Copy of letter from DHHR dated December 20, 2007
D-6 Notification letter dated January 7, 2008
D-7 Fax from Otolaryngology Nurses Station dated January 2, 2008
D-8 Copy of Case Comments from Rapids
D-9 WV Income Maintenance Manual Section 24.4
D-10 Hearing Summary dated February 28, 2008
D-11 Notification letter dated December 21, 2007

Claimant's Exhibits:

C-1 Information from The KNOW Pain Clinic dated January 17, 2008
C-2 Disability statement dated January 11, 2008

VII. FINDINGS OF FACT:

- 1) On July 17, 2007, the Claimant signed page four (4) of a Personal Responsibility Contract (D-1), hereinafter called PRC agreeing to keep all appointments with Vocational Rehabilitation on an “ongoing” basis. The form also indicated she agreed to provide the Department with a medical statement by August 31, 2007.
- 2) The Department sent the Claimant a second notice (D-2) indicating that she was scheduled to come to the Department for a PRC update on August 2 at 9:00 a.m. The letter also explained the following information:

You will be completing a referral packet to WV Division of Rehabilitation Services for assessment and/or testing. This is a new state policy regarding clients that are not in a work activity for a disability exemption. You are required to keep this appointment, or there will be a sanction on your TANF check.

The letter went on to say that she could contact her case manager if she had any questions. The claimant kept this appointment.

- 3) The Division of Rehabilitation Services sent the Claimant an appointment notice (D-3) dated December 10, 2007 informing her that she was scheduled for assessments on December 20, 2007 at 9:00 a.m. at the WV Division of Rehabilitation [REDACTED] District Office. The notice also included the following:

If you can **NOT** make this appointment, please call me during regular working hours, between 7:30am – 5:30pm on Tuesday through Friday at (304) 256-6900 at least **24 hours in advance**. You may also talk to my secretary, [REDACTED] to excuse this date and schedule another date for the assessments.

- 4) Evidence was presented to show the Claimant failed to keep the appointment with Division of Rehabilitation as scheduled, and failed to contact the agency to reschedule.
- 5) The Department sent the Claimant a letter (D-5) on December 20, 2007 explaining that since she had missed the appointment and failed to contact them to reschedule, a sanction was being placed on her case effective February 1, 2008. The letter also explained a “good cause” appointment had been scheduled for her on January 4, 2008 at 10:00 a.m. to discuss her reasons for failing to cooperate. The Claimant kept the “good cause” appointment, but was unable to resolve the issue to her satisfaction.
- 6) The Claimant provided several reasons for her failure to keep the appointment with Division of Rehabilitation. She indicated that she has memory problems due to a prior car accident and was under the impression that she did not have to go to activities since she had provided a disability medical statement. She then stated that she had a medical appointment in [REDACTED] on December 21, 2007, drove up there the day before, and could not have kept

the appointment. She also stated that she did not know about the appointment with Division of Rehabilitation until she returned from [REDACTED]. She states by the time she picked up her mail it was past the time for her appointment. She stated that she does not allow others to pick up her mail, and the post office is approximately ten (10) miles from her home. She also did not have a car at the time. She did not contact Division of Rehabilitation to reschedule once she realized she had missed the appointment. She stated that she didn't think she had to.

- 7) The Department's position is that the Claimant signed the PRC indicating she understood and would keep all appointments with Division of Rehabilitation, as well as to provide medical statements. The Department indicated the Claimant should have contacted the Division of Rehabilitation to reschedule, and therefore failed to abide by the PRC agreement.
- 8) 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.
- 9) West Virginia Income Maintenance Manual section 13.9 states:
When a member of the benefit group does not comply with the 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.
- 10) West Virginia Income Maintenance Manual 24.4 states:
Failure without good cause to keep appointment to initiate or continue the assessment process indicates a failure/refusal to cooperate or participate. All Work-Eligible Individuals must be scheduled for assessment testing unless one of the exceptions exists.

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 her scheduled appointment with Division of Rehabilitation, and failed to contact them to reschedule same. Although I find some of the Claimant's claims to be valid as to her difficulty getting to the post office timely, I find no good cause for failing to contact the agency to reschedule her appointment. The Claimant clearly failed to honor the PRC agreement to keep all appointments with Vocational Rehabilitation.

IX. DECISION:

After reviewing the information presented during the hearing, and the applicable policy and regulations, it is the ruling of the State Hearings Office to **uphold** the Agency's proposal to apply a second level sanction to your WV WORKS benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 7th Day of April, 2008.

**Cheryl Henson
State Hearing Officer**