



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 26, 2008



Dear Ms. 

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 27, 2008. Your hearing request was based on the Department of Health and Human Resources' termination of your WV Works benefits due to a 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 WV Works Program is based on current policy and regulations. Some of these regulations state as follows: 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 (West Virginia Income Maintenance Manual, Chapter 13.9).

The information which was submitted at your hearing revealed that you did not comply with the requirements of your Personal Responsibility Contract (PRC) and that you failed to establish good cause.

It is the decision of the State Hearings Officer to **uphold** the action of the Department to terminate your WV Works benefits due to a sanction.

Sincerely,

Todd Thornton
State Hearings Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Eric Dotson, Department Representative

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

██████████
Claimant,

v. Action Number: 08-BOR-824

**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 August 26, 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 February 27, 2008 on a timely appeal, filed January 8, 2008.

It should be noted here that the claimant's benefits have not been continued pending a hearing decision.

II. PROGRAM PURPOSE:

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
Anita Hayes, Family Support Specialist

Presiding at the Hearing was Todd Thornton, 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 to impose a third-level sanction terminating WV Works benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapters 1.25; 13.9; 13.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Summary
- D-2 WV Works – Personal Responsibility Contract (DFA-PRC-1); Part 1 dated August 2, 2006; Part 2 (Self-Sufficiency Plan) dated November 27, 2007
- D-3 Notice of sanction/termination dated December 19, 2007
- D-4 RAPIDS CMCC (Case Comments) Screen Prints from December 3, 2007 through January 8, 2008
- D-5 West Virginia Income Maintenance Manual, Chapters 1.25; 13.9; 13.10
- D-6 EBT Administration System Screen Print of Transaction History for [REDACTED]

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) On November 27, 2007, the Claimant signed a Personal Responsibility Contract (Exhibit D-2) outlining her responsibilities, goals, and specific assignments and activities in the WV Works Program. The first portion of the form was signed by the Claimant on August 2, 2006.
- 2) The Claimant did not arrive for a scheduled appointment at 11:30 a.m. on December 4, 2007. The Department sent a notice (Exhibit D-3) to the Claimant, advising her of a sanction that would close terminate her WV Works benefits. The notice states, in pertinent part:

“1. ACTION: Your WV WORKS will stop. You will not receive this benefit after DECEMBER 2007.

2. REASON: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).”

- 3) The Personal Responsibility Contract (Exhibit D-2) signed by the Claimant lists specifically under client responsibilities, with regard to meetings and appointments:

“I understand that I am required to attend any meetings/appointments related to my eligibility for cash assistance and my self-sufficiency goals. These meetings/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.”

- 4) Exhibit D-2 later explains the penalties for non-compliance with the Personal Responsibility Contract:

“I understand that I must comply with the Rights and Responsibilities section of my application for assistance and follow my PRC or a penalty may be applied. Penalties include case closure, repayment or legal action, removal from the payment, or sanctions as follows:

1st sanction: A one-third (1/3) cut in my family’s WV WORKS benefit for three (3) months for my first penalty;

2nd sanction: A two-thirds (2/3) cut in my family’s WV WORKS benefit for three (3) months for my second penalty; and

3rd sanction: My family’s WV WORKS benefit will stop for at least three (3) months if I have a third penalty.

Penalties will also be applied to Food Stamp benefits, Medicaid, and Emergency assistance if required by the rules of these programs.”

- 5) The West Virginia Income Maintenance Manual, Chapter 1.25, T (Exhibit D-5) on the Personal Responsibility Contract (PRC) states, in pertinent part:

“Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the AG.”

The West Virginia Income Maintenance Manual, Chapter 13.9 (Exhibit D-5) on WV Works Sanctions reiterates this point:

“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.”

- 6) The Claimant testified that her good cause for not attending the scheduled appointment with her worker on December 4, 2007 was the lack of availability of transportation. The Claimant indicated that she called to advise her worker that she could not make the scheduled appointment. She also stated that she did come to the office, but not at the appointed time.
- 7) With regard to both the phone call and the office visit, the Claimant did not offer clear testimony. She indicated that she made the phone call on December 4, 2007, and initially testified that she made the office visit on December 4, 2007. The Family Support Specialist testified that her voice mail had a message from the Claimant at 3:25 p.m. on December 4, 2007. She also testified that the Claimant's office visit was actually on December 5, 2007, when the Claimant saw an intake worker and the Claimant's assigned worker was unable to see her. The Department provided a printout of case comments (Exhibit D-4) to support the assertion of the December 5, 2007 office visit by the Claimant.
- 8) Chapter 13.10 of the West Virginia Income Maintenance Manual outlines good cause for failure to participate with WV Works requirements. Transportation is listed as a possible reason, under a listing of other good cause reasons. The West Virginia Income Maintenance Manual, Chapter 13.10, E (Exhibit D-5) explains and limits this as follows:

“There is no transportation currently available to the client and all possible sources of transportation have been explored. He must accept appropriate available transportation in the community.”

The Claimant offered testimony that she had no transportation on the day of the appointment. The Department countered that there was available transportation to the Claimant on the day of the appointment via the bus line or by taxi.

- 9) The Claimant stated that neither taxi service nor the bus line would have been possible transportation on December 4, 2007 because without money on the cash account of her EBT card, she was unable to access any money to pay for either mode of transportation. The Department provided a printout from the Claimant's EBT account (Exhibit D-6) for WV Works benefits. This printout clearly shows that not only did the Claimant have access to the cash benefits on her EBT account on the day of December 4, 2007, she completed two transactions on that day prior to her appointment time.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant signed a PRC listing requirements that included keeping her appointments scheduled by the Department. When the Claimant failed to keep an appointment, she claimed to have made a phone call and an office visit; the undisputed testimony from the Department however, is that the Claimant did not show up at the appointed date and time. When the Claimant was sanctioned for failure to keep that appointment, she offered transportation as a reason for good cause. The Department clearly showed that alternate transportation was available, and that the Claimant had

money to pay for alternate transportation at the date and time of the appointment. The action of the Department to apply a third-level sanction and terminate the Claimant's WV Works benefits is correct.

IX. DECISION:

It is the decision of the State Hearings Officer to **uphold** the action of the Department to apply a third-level sanction and terminate the 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 _____ day of August, 2008.

Todd Thornton
State Hearings Officer