



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

August 3, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 22, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your WV WORKS benefits by imposing a 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. These regulations provide that if an individual does not comply with requirements found on his Personal Responsibility Contract, 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 (West Virginia Income Maintenance Manual § 13.9 A).

The information which was submitted at your hearing revealed that you did not provide good cause for your failure to participate in your assigned work activity prior to the imposition of the sanction.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to reduce your WV WORKS benefits by imposing a first level sanction.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Board of Review
Beverly Ballengee, Family Support Supervisor

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

-----,

Claimant,

v.

Action Number: 09-BOR-1322

**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 July 22, 2009 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 July 22, 2009 on a timely appeal, filed June 2, 2009.

It should be noted here that the claimant's benefits under the WV WORKS program have not been continued pending a decision.

II. PROGRAM PURPOSE:

The Program entitled WV WORKS is administered by the West Virginia Department of Health & Human Resources.

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited Program that emphasizes employment and personal responsibility. The goals of WV WORKS are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by promoting self-sufficiency, and structure assistance to emphasize employment and personal responsibility.

III. PARTICIPANTS:

-----, Claimant

-----, Claimant's Fiancée

Tammy Cooley, Family Support Specialist

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not the Department's decision to impose a sanction against Claimant's WV WORKS benefits is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.25 and 13.9 A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Personal Responsibilities Contract (PRC), page 4, dated March 31, 2009
- D-2 Notification Letter dated May 5, 2009
- D-3 WV Income Maintenance Manual § 1.25 T
- D-4 WV Income Maintenance Manual § 13.9
- D-5 WV Income Maintenance Manual § 24.4 D
- D-6 Doctor's Excuse for May 4, 2009 to June 15, 2009 from Dr. [REDACTED]
- D-7 Doctor's Excuse for April 8, 2009 from Dr. [REDACTED]
- D-8 Doctor's Excuse for April 17, 2009 from Dr. [REDACTED]

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant was receiving WV WORKS benefits and was placed in a work activity on March 31, 2009. Claimant signed a PRC that date which read in pertinent parts (D-1):

<u>Specific Activity/Assignment</u>	<u>Begin/Due Date</u>
Complete all assignments	March 31, 2009
Report all changes within 10 days	March 31, 2009
Will complete home or site visit w/i 45 days	March 31, 2009
Begin attending Options class and attend min. of 20	April 6, 2009

hours per week until job is found or class is complete

- 2) Claimant contacted her caseworker, Tammy Cooley, on April 6, 2009 and reported her daughter was sick and she would not be attending Options class that day. Ms. Cooley spoke with Claimant again on April 9, 2009 and was advised by Claimant that her son had oral surgery on April 8, 2009. Ms. Cooley told Claimant to start classes on April 13, 2009.
- 3) Ms. Cooley proposed a first level sanction against Claimant on May 5, 2009 when Claimant had not attended any Options classes. Claimant attended her Good Cause appointment on May 11, 2009 and provided doctors' excuses, exempting her from work activities, on April 8, 2009 and May 4, 2009 through June 15, 2009 (D-6 and D-7).

Ms. Cooley advised Claimant the excuses she provided did exempt her for the full month of April 2009. Claimant stated she would bring in another excuse and was given until May 12, 2009 to turn it in. Claimant turned in another doctor's excuse; however it only exempted Claimant for April 17, 2009 (D-8). Claimant's sanction was imposed effective June 1, 2009.

Ms. Cooley stated Claimant called her June 1, 2009 and subsequently provided another doctor's excuse after the sanction was imposed.

- 4) Claimant testified she had a hysterectomy on May 4, 2009. She had been having problems since October 2008 but was not approved for the surgery until May. She stated April was a hectic month for her, her son had oral surgery on April 8, 2009 and was advised by his doctor that he could not return to school until after spring break (April 13-April 17). Her son currently has an open youth services case and he is not to be left alone. Claimant felt like due to her health problems and the issues with her son, the sanction should not have been imposed.
- 5) WV Income Maintenance Manual § 1.25 states:

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

- 6) WV Income Maintenance Manual § 13.9 A states:

When a member of the Assistance Group (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.

VIII. CONCLUSIONS OF LAW:

- 1) As dictated by policy, Claimant was required to attend Options classes twenty (20) hours a week as specified on her PRC. A sanction was proposed when Claimant failed to meet this work requirement.
- 2) Although Claimant attended her Good Cause appointment and provided doctors' excuses for her absence from Options classes, the excuses failed to exempt her for the entire time period from which she failed to meet her work requirement. Once a sanction has been imposed, it cannot be lifted until the appropriate time period has elapsed.
- 3) Claimant's WV WORKS benefits were correctly reduced for her failure to meet the work requirements of her PRC.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to reduce Claimant's WV WORKS benefits by the imposition of a first level sanction.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd day of August 2009.

Kristi Logan
State Hearing Officer