



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

January 28, 2009

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held on November 24, 2008. Your hearing request was based on the Department of Health and Human Resources' closure of your WV WORKS benefits due to a third-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 WV WORKS Program is based on current policy and regulations. Some of these regulations state as follows: Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC (Personal Responsibility Contract) after signature, results in imposition of a sanction against the Assistance Group. No sanction may be imposed for failing to adhere to any provision that is not specifically addressed on the PRC at the time the failure occurred (West Virginia Income Maintenance Manual, Chapter 1.25.T).

The information 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 close your WV WORKS benefits due to a sanction.

Sincerely,

Jennifer E Butcher  
State Hearings Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Kathy Brumfield, Family Support Specialist

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

\_\_\_\_\_,

**Claimant,**

v.

**Action Number : 08-BOR-1942**

**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 28, 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 November 24, 2008 on a timely appeal, filed July 21, 2008.

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 participating by phone  
Kathy Brumfield, Family Support Specialist

Presiding at the Hearing was Jennifer Butcher, State Hearing Officer and a member of the State Board of Review.

All persons offering testimony were placed under oath.

### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct to impose a sanction terminating WV WORKS benefits.

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapters 1.25.T; 24.14 and 24.16

### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

#### **Department's Exhibits:**

- D-1 Summary for the Fair Hearing dated October 21, 2008
- D-2 Notification of WV WORKS closure due to sanction and Good Cause appointment dated July 15, 2008
- D-3 Fair hearing requests dated July 21, 2008 and August 15, 2008
- D-4 Request for Support Payment for clothing dated August 15, 2008
- D-5 Bureau for Child Support Enforcement sanction dated July 22, 2008
- D-6 West Virginia Department of Health and Human Resources WV WORKS Post-Employment Services Options dated January 15, 2008
- D-7 West Virginia Department of Health and Human Resources Request for Assistance for Food Stamps, WV WORKS/Cash Benefits, Medicaid, and Emergency Assistance dated June 9, 2008.
- D-8 West Virginia Department of Health and Human Resources Division of Family Assistance Participant Time Sheet dated July 2008.
- D-9 West Virginia Department of Health and Human Resources Acknowledgment of Automatic Assignment of Support Rights and of Cooperation Requirements dated June 13, 2008.
- D-10 West Virginia Department of Health and Human Resources Rights and Responsibilities dated June 13, 2008
- D-11 West Virginia Income Maintenance Manual, Chapter 24.14
- D-12 West Virginia Income Maintenance Manual, Chapter 24.16
- D-13 West Virginia Department of Health and Human Resources Personal Responsibilities Contract (hereinafter PRC) dated June 13, 2008
- D-14 West Virginia Department of Health and Human Resources Personal Responsibilities Contract (hereinafter PRC) dated July 22, 2008

- D-15 Notification letter to increase in West Virginia WORKS benefits effective July 1, 2008 dated June 16, 2008
- D-16 Notification letter of proposed sanction and Good Cause appointment dated June 17, 2008.
- D-17 Verification Spreadsheet for cash assistance and Food Stamp benefits distributed to Claimant for the month of June, 2008.

## VII. FINDINGS OF FACT:

- 1) On January 15, 2008, the Claimant signed up for Employment Assistance Payments (hereinafter known as EAP) (Exhibit D-6) which is a payment equal to the cash assistance payment the Claimant was receiving before beginning full-employment. The EAP issued monthly on Electronic Benefit Transfer (hereinafter known as EBT) card.
- 2) On June 9, 2008 the Claimant came into the office to reapply for the West Virginia WORKS (hereinafter known as WV WORKS) because there are no children in her day care. (Exhibit D-7).
- 3) The Department worker and the Claimant completed a Personal Responsibility Contract (hereinafter known as PRC) on June 13, 2008 (Exhibit D-13). This agreement lists specific assignments or activities for the Claimant to follow, in pertinent part:
  - 1) Report all changes w/i 10 days
  - 2) Keep all appt. w/DHHR
  - 3) Cooperate w/BCSE
  - 4) Be available for home, site, work visits
  - 5) Turn in time sheets by 5<sup>th</sup> calendar day of each month
  - 6) Maintain 20 hours weekly watching children in your home for a community service client(s).

The form additionally lists several statements, including

- **I understand** that if I do not cooperate/participate with all the assignments/activities listed above that I will be penalized.

- 4) The Department sent (Exhibit D-15) notification to the Claimant on June 16, 2008 informing her of the increase in benefits effective July 1, 2008 due to decrease in income.
- 5) On June 17, 2008, the Claimant was issued an approval letter (Exhibit D-16) stating in part:

WV WORKS

We have reviewed your eligibility. You are eligible to receive additional WV WORKS benefits.

Here is why:

06-08            \$118.00 SUPPLEMENT ADCW-D PYMT [sic] AS REQ. [sic] By  
AGENCY POLICY

- 6) The department notified the Claimant on July 15, 2008, that her WV WORKS check would be closed due to a third sanction, and scheduled a Good Cause appointment with the Claimant (Exhibit D-2). This notice states, in pertinent part:
1. ACTION: Your WV WORKS will stop. You will not receive this benefit after July 2008.
  2. REASON: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).

The notice additionally specifies the PRC violation, stating, in pertinent part:

This sanction is being applied due to the failure of \_\_\_\_\_ to meet the terms of the Personal Responsibility Contract by FAILING TO PARTICIPATE WITH WORK PROGRAMS.

- 7) Testimony and evidence from the Department revealed that the Claimant was assigned to maintain twenty (20) hours weekly watching children in her home for community service clients and failed to turn in her time sheet by the fifth (5<sup>th</sup>) of the following month. The Department placed a third sanction against the Claimant's case for failure to complete this activity described in Exhibit D-13.
- 8) The West Virginia Income Maintenance Manual, Chapter 13.9 on WV WORKS Sanctions states, in pertinent part:
- 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.
- 9) An appointment to allow the Claimant to establish good cause for failure to complete the assigned work activity was scheduled for July 21, 2008 (Exhibit D-2). Testimony from the Department stated that the Claimant did not attend this Good Cause interview.
- 10) The Claimant testified she did appear for the interview on July 21<sup>st</sup> and explained that she had not been approved for benefits and was told she would not be approved until July, 2008. She explained, once she had been approved she had a certain amount of time to get into an activity. The Department worker adamantly stated the Claimant was approved the day she reapplied and the cash benefits were placed on the EBT card on June 13, 2008.
- 11) Evidence that had been requested by the Hearing Officer was later provided by the Department worker (Exhibit D-17) to verify that the Claimant had received her EAP benefit on June 1, 2008 in the amount of One Hundred and Fifty-five Dollars (\$155.00). The prorated benefit from the application date of June 13, 2008, in the amount of One

Hundred and Eighteen Dollars (\$118.00) was entered the following business day which was June 16, 2008. This information was also mailed to the Claimant for her records.

- 12) Exhibit D-10, Rights and Responsibilities dated June 13, 2008, page five (5), item nineteen (19) under WV WORKS states:

I understand that if I am a recipient or non-recipient Work-Eligible parent or step-parent, I must sign a Personal Responsibility Contract (PRC) and will be required to participate in a work activity beginning with the first month of WV WORKS benefits as a condition of eligibility. Failure to sign the PRC will result in ineligibility for WV WORKS for my family.

- 13) A request for a second fair hearing was received by the Department dated August 15, 2008. This request was based on another sanction that was being placed on the Claimant for non-cooperation with Child Support (Exhibit D-3). The Department and Claimant agreed to cooperate with BCSE as part of her Personal Responsibility Contract (PRC) on June 13, 2008 and July 22, 2008. Once the document was signed, it was a contract between the Department and herself that must be upheld until the contract was re-negotiated.

- 14) West Virginia Income Maintenance Manual, Chapter 13.9.A (Exhibit D-6) defines the sanction levels as follows:

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 Assistance Group is currently eligible to receive, for 3 months

2nd Offense = 2/3 reduction in the benefit amount, prior to recoupment, that the Assistance Group 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  
Offenses = Ineligibility for cash assistance for 3 months.

#### VIII. CONCLUSIONS OF LAW:

- 1) The West Virginia Income Maintenance Manual, Chapter 1.25.T, 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 Assistance Group. No sanction may be imposed for failing to adhere to any provision that is not specifically addressed on the PRC at the time the failure occurred.

- 2) This hearing request had underlying issues but the basis for this hearing was the establishment of the eligibility date, when the work activity was to begin and the non-cooperation with BCSE. The PRCs were completed on June 13, 2008 and July 22, 2008. On those dates the Department worker and Claimant negotiated and agreed upon a Personal Responsibility Contract with activities that needed to be met beginning on June 13, 2008 and July 22, 2008.
- 3) Clear and convincing testimony confirmed that the Claimant failed to complete the PRC assignment. The Claimant may have called the Department worker or Client Services, however, the Claimant failed to show any concrete evidence as to why she did not complete her work activity or for her non-cooperation with the BCSE.

**IX. DECISION:**

It is the decision of the State Hearings Officer to **uphold** the action of the Department to apply a third-level sanction terminating 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 28th Day of January, 2009.**

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**Jennifer E. Butcher**  
State Hearings Officer