



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Patsy Hardy, FACHE, MSN, MBA
Cabinet Secretary

November 19, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 17, 2009. Your hearing request was based on the Department of Health and Human Resources' action to apply a first sanction to your WV WORKS benefits.

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 that the Department is required to make a home visit within 45 days of the date of a WV WORKS application to complete a Self-Sufficiency Appraisal form. When the first home visit is scheduled in writing, a second appointment need not be made before imposing a sanction, unless the applicant has good cause or contacts the worker to reschedule the appointment. (West Virginia Income Maintenance Manual Section 24.4, B)

Information submitted at your hearing demonstrates that you failed to keep a 45-day home visit appointment with your worker.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in applying a first sanction to your WV WORKS benefits.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Sharon Straley, FSS, DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-2140

**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 November 19, 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 hearing was convened on November 17, 2009 on a timely appeal filed October 21, 2009.

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

II. PROGRAM PURPOSE:

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
Sharon Straley, Family Support Supervisor, DHHR
Neavoda Birchfield, Family Support Specialist, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its action to apply a first sanction and reduce the Claimant's WV WORKS benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 24.4, B and 13.9, A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Letter to Claimant from Neavoda Birchfield dated September 23, 2009
- D-2 Claimant's statement and worker notations concerning 45-day assessment
- D-3 Notice of Decision dated October 9, 2009
- D-4 West Virginia Income Maintenance Manual Section 24.4, B

Claimant's Exhibits:

- C-1 Letter from [REDACTED]

VII. FINDINGS OF FACT:

- 1) The Claimant receives WV WORKS benefits for his daughter and was due for a 45-day home visit from the Family Support Specialist. The Claimant was notified in a September 23, 2009 letter (D-1) that the worker would visit his home between 9:30 a.m. and 11:30 a.m. on September 30, 2009.
- 2) The Family Support Supervisor testified that the worker attempted to make the home visit on September 30, 2009, however the Claimant was not at his residence. The Claimant left a note (D-2) on his door for the worker which stated, "Have no access to telephone. Have to reschedule." Exhibit D-2 also includes the worker's notations regarding the 45-day assessment and indicates that the visit was attempted on September 30, 2009, but the Claimant was not home.
- 3) The Department sent the Claimant a Notice of Decision dated October 9, 2009 (D-3) indicating that his WV WORKS benefits would be reduced due to the imposition of a first sanction. A good cause appointment was scheduled for October 15, 2009. It should be noted that the letter also indicates a second sanction would be applied to the Claimant's case, however, the supervisor said that information was incorrect and the second sanction was not applied. The Claimant's WV WORKS benefits decreased from \$262 to \$175 as a result of imposition of the first sanction.

Although the Claimant is a drug felon and is not included in the WV WORKS Assistance Group, the supervisor testified that he is required to meet work requirements for the program.

- 4) The Claimant testified that he has no telephone and could not contact the worker to inform her of his need to reschedule the home visit. He provided Exhibit C-1, an undated letter from his landlord, which indicates that he was \$650 behind in his rent. The Claimant contended that he was away from his residence trying to obtain money to pay his rent during the time of the scheduled visit.

The supervisor indicated that the Claimant frequently calls the DHHR office, however, the Claimant contended that he is only able to call the Department during times that he has access to a telephone.

- 5) West Virginia Income Maintenance Manual Section 24.4, B (D-4) addresses the 45-day home visit and states, in pertinent part:

In order to gain as much information as possible prior to negotiation of the full SSP (Self-Sufficiency Appraisal form), a home visit is required within 45 days of the date of application. At a minimum, the Worker must review the completed appraisal form with the client during the home visit. The first full SSP and the appraisal form must also be completed within 45 days of the date of application, so the home visit must not be delayed until the last day.

The product of the ongoing assessment process is a series of SSP's that reflect the client's changing circumstances and tasks that move him toward self-sufficiency. Failure, without good cause, to keep appointments to initiate or continue the assessment process indicates a failure/refusal to cooperate or participate. When the first home visit is scheduled in writing, a second appointment need not be made before imposing a sanction, unless the applicant has good cause or contacts the Worker to reschedule the appointment.

The Worker may provide written notice of the appointment by including it on the initial PRC or by using any approved appointment forms. The written notice may be given to him during the interview or may be mailed.

- 6) West Virginia Income Maintenance Manual Chapter 13.9, A, states that when a member of the Assistance Group or a non-recipient work-eligible individual does not comply with requirements on his Personal Responsibility Contract, a sanction must be imposed unless the worker determines that good cause exists.

The penalty for a first offense sanction is a 1/3 reduction in the benefit amount for three months. Unless the client shows good cause for non-compliance, the sanction is imposed.

VIII. CONCLUSIONS OF LAW:

- 1) Policy reveals that the Department must visit a WV WORKS recipient's home within 45 days of the date of application. When the first home visit is scheduled in writing, a second appointment need not be made before imposing a sanction, unless the applicant has good cause or contacts the worker to reschedule the appointment.
- 2) Information provided during the hearing indicates that the Department scheduled the Claimant's 45-day home visit in writing and the Claimant was not home when the worker arrived. The Claimant did not inform the worker he would be unavailable for the visit and has not established good cause for failing to participate.
- 3) The Department acted correctly in applying a first sanction to the Claimant's WV WORKS benefits.

IX. DECISION:

The Department's action to apply a first sanction to the Claimant's WV WORKS benefits is **upheld**.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision
Form IG-BR-29

ENTERED this 19th Day of November, 2009.

**Pamela L. Hinzman
State Hearing Officer**