



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Joe Manchin III  
Governor

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

December 16, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 15, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your WV WORKS cash assistance effective November 1, 2009 based on the enforcement of a third (3<sup>rd</sup>) 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. The client must be given the opportunity to establish good cause. For a third offense, the sanction consists of termination of the check benefit 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 attend your assigned activity the required minimum of seventy eight (78) hours in September 2009, and failed to establish good cause for this failure at your good cause interview on October 26, 2009.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department in enforcing a third (3<sup>rd</sup>) level sanction in your WV WORKS case effective November 2009. As a result, the Department may seek repayment of your WV WORKS cash assistance for the period of November 1, 2009 through January 31, 2010.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Alice Kayrouz, [REDACTED] DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 09-BOR-2143**

**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 December 15, 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 convened on December 15, 2009 on a timely appeal filed October 26, 2009.

It should be noted that the Claimant's WV WORKS cash assistance benefits have been continued pending the outcome of this hearing.

**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  
Alice Kayrouz, Department Representative

Presiding at the Hearing was Cheryl Henson, 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 proposal to terminate the Claimant's benefits and services through the WV WORKS Program effective November 2009 based on the imposition of a 3<sup>rd</sup> sanction.

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

West Virginia Income Maintenance Manual, Chapter 1.25, 13.9, 13.10, 24.3 & 24.4

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

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

- D-1 Notification letter dated October 19, 2009 and IG-BR-29
- D-2 WV WORKS Home Visit Report Form dated September 3, 2009
- D-3 DFA-PRC-1 signed August 25, 2009 and Referral for Training form
- D-4 September 2009 Participant Time Sheet
- D-5 WV Income Maintenance Manual Sections 24.3 and 24.4 with chart

##### **Claimant's Exhibits:**

None

#### **VII. FINDINGS OF FACT:**

- 1) The Claimant applied for WV WORKS cash assistance in August 2009 and was determined to be considered a one person household with a child under the age of six (6) years old for purposes of work activity assignments. This determination required the Claimant to participate in a work activity a minimum of seventy eight (78) hours per month. On August 25, 2009 the Claimant signed (D-3) page four (4) of a Personal Responsibility Contract, hereinafter called PRC, indicating her agreement to participate in the following assignments/activities:

- Be available for home visits
- Cooperate with child support and attend all appointments
- Cooperate with DHHR and attend all appointments and activities
- Report all life changes within 10 days
- Attend [REDACTED] orientation Monday August 30, 2009 at 8:30 a.m.
- Attend SPOKES on August 31, 2009 at 9:00 a.m.
- Turn in time sheets before the 5<sup>th</sup> of every month
- Maintain a minimum of 78 hours at SPOKES
- Have a backup child care plan as to avoid absences

- Notify your worker of any phone number changes

She also indicated with her signature that she understood if she failed to cooperate by participating with all the assignments/activities listed that she would be penalized.

- 2) The Department listed the Claimant's barrier to employment as transportation on the PRC; however, no supportive services were offered to the Claimant on that date to eliminate the barrier. Her goal was listed as "full time employment" by December 2009.
- 3) The Claimant acknowledged by signing the PRC that she understood that her plan could be changed with the help and approval of her worker when life changes occurred, and that she agreed to cooperate/participate with all the assignments or activities listed.
- 4) The Department Representative, Alice Kayrouz, a WV WORKS worker, stated that when the Claimant did not attend orientation at [REDACTED] College on August 30, 2009 she conducted a home visit in order to discuss the situation with her. She stated the home visit occurred on September 3, 2009. At that time the Claimant indicated she was having some family problems but declined to elaborate other than to say that her child had been sick and she had transportation issues. Ms. Kayrouz stated that she immediately issued eighty dollars (\$80.00) in travel payments to the Claimant in order to purchase a bus pass for forty dollars (\$40.00) and buy gasoline for a friend to occasionally transport her to class. Ms. Kayrouz indicated she addressed all issues made known to her during the visit.
- 5) The Claimant attended SPOKES orientation on September 14, 2009 (D-4) and class on September 15<sup>th</sup> and 18<sup>th</sup> for a total of fourteen (14) monthly hours; however, she failed to attend any other days that month. According to the September 2009 timesheet (D-4) the Claimant missed ten (10) available days of class after her orientation.
- 6) Ms. Kayrouz stated that according to policy (D-5) she is required to impose a sanction upon the Claimant's case. The Claimant has already received two (2) prior sanctions, which required her case to be closed for the third sanction for three months. The Department sent the Claimant a notification letter (D-1) informing her that her WV WORKS cash assistance would stop effective November 1, 2009 as a result of this sanction being imposed. The notice also informed the Claimant that a good cause interview had been scheduled for her on October 26, 2009. The good cause interview affords the Claimant an opportunity to explain the reasons for failure to fulfill agreed assignments in an attempt to avoid sanctions.
- 7) The Claimant attended the good cause interview and explained to the Department worker that she had family problems including that her child had been sick. She offered no evidence of the problems and did not elaborate. The Claimant reported during this interview that she was now attending [REDACTED] a vocational college, and pursuing completion of Medical Administrative Assistant training. The Department found that the Claimant did not establish good cause for her failure to cooperate in September 2009. The Claimant requested a hearing on the same date of her good cause interview.
- 8) Ms. Kayrouz testified that she had addressed all known barriers for the Claimant and that she determined the Claimant did not have good cause for failing to cooperate. She testified that the Claimant mentioned transportation problems which were corrected, and illness of her child

which was considered but not found to be reason for failing to attend all but two (2) days class in September 2009. She contends the Department acted according to policy.

- 9) The Claimant testified that she recalls the agreement she made with the Department, however she was having domestic violence problems during this time which she chose not to make known to the Department. She testified that she was in an abusive relationship with someone at the time which interfered with her ability to cooperate. This information was not given to the Department prior to the sanction or during the good cause interview. The Claimant contends that since she is now attending training at the [REDACTED] the Department should consider that she is cooperating. She added she began attending the [REDACTED] on October 19, 2009.
- 10) 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.
- 11) West Virginia Income Maintenance Manual section 24.3 states in pertinent part:

Each adult and emancipated minor who receives WV WORKS benefits and non-recipient Work-Eligible individual must meet a work requirement at a minimum rate of participation.

One parent families include, but are not limited to, the following situations:

- Families with only 1 parent living in the home, whether he is included in the AG or is a non-recipient Work-Eligible Individual

Workers must determine whether absences are excused or unexcused.

All missed time whether excused or unexcused, must be made up within the month in which it is missed. When it is impossible to make up time missed, the Worker must decide if the absence is excused or unexcused.

Excused absences of up to 16 hours/month, not to exceed a maximum of 80 hours in the 12-month period, including the current and the preceding 11 months, may be counted as hours worked in that month.

- 12) 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.

1<sup>st</sup> Offense - 1/3 reduction in the check amount for 3 months.

2<sup>nd</sup> Offense - 2/3 reduction in the check amount for 3 months.

3<sup>rd</sup> Offense and all subsequent offenses - Ineligibility for cash assistance for 3 months or until compliance, whichever is later.

The client must also be given the opportunity to establish Good Cause.

13) West Virginia Income Maintenance Manual 24.4 states:

The Worker must assist the client in all reasonable ways to achieve self-sufficiency. To accomplish this, the Worker must assess the client's knowledge and skills, work with the client and make informed recommendations about courses of action appropriate for each individual to develop a plan that is expected to lead to self-sufficiency. In addition, he must enter into an agreement with the client concerning his involvement in the process of becoming self-sufficient, monitor the client's progress to determine changing needs and the need for support service payments and take appropriate follow-up action based on the client's actions.

To meet the goals of the WV WORKS Program, a worker performs the following activities for WV WORKS families:

- Negotiates the PRC with the client to determine the best means to
- achieve self-sufficiency and accept personal responsibility.
- Monitors compliance with the PRC
- Determines good cause for failure to comply with the PRC
- Applies sanctions as appropriate

The Participation Chart indicates a single parent with a child under age 6 must participate in an activity a minimum of seventy eight (78) hours per month.

14) West Virginia Income Maintenance Manual Section 13.10 states in pertinent part:

Failure or refusal to comply, without good cause, results in imposition of a sanction. When the Worker discovers the failure or refusal, a notice of adverse action must be issued. When a letter is mailed scheduling the good cause interview, the Worker must allow no less than 7 calendar days. This period begins the day following the date the letter is requested in RAPIDS, or the day following the date a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the client. If the appointment is scheduled for a date prior to the 7 calendar days, the participant and the Worker must agree on the appointment date.

## **VIII. CONCLUSIONS OF LAW:**

- 1) The purpose of this hearing is to determine whether the Department, with the information available to them, correctly applied a 3<sup>rd</sup> sanction against the Claimant effective November 1, 2009 which resulted in termination of the WV WORKS cash assistance for three months.
- 2) Policy provides that the Claimant was obligated to participate in an activity for seventy eight (78) hours per month. She entered into a contract by signing the PRC in which she agreed to attend SPOKES class seventy eight (78) hours per month. It is clear she understood her responsibility to

cooperate and inform the Department of any changes in her life situation. The only barrier made known to the Department was a transportation issue.

- 3) 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. Policy also states that clients must be given the opportunity to establish Good Cause.
- 4) The Claimant was clearly given an opportunity to establish good cause for her failure to participate as agreed; however, the reasons she provided to the Department at that time were vague and not sufficient to establish good cause. The Claimant reported family problems, eluding that her child had been ill and disclosing nothing further for consideration.
- 5) Although the Claimant testified during the hearing that she was involved in a violent domestic relationship at the time, it is clear this was not made known to the Department at any time prior to the sanction being imposed, and therefore cannot be considered for the purposes of this hearing.
- 6) The Department clearly followed policy and fulfilled its obligation to the Claimant during this process, and with the information available to it at the time, correctly imposed a 3<sup>rd</sup> sanction against the Claimant.

#### **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 third level sanction to your WV WORKS benefits for the period of November 1, 2009 through January 31, 2010.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 16<sup>th</sup> Day of December 2009,**

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**Cheryl Henson  
State Hearing Officer**