



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

April 3, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 13, 2009. Your hearing request was based on the Department of Health and Human Resources' reduction of your WV Works benefits due to a 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 that when a member of the Assistance Group or non-recipient Work-Eligible 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 (West Virginia Income Maintenance Manual, Chapter 13.9).

The information submitted at your hearing revealed that you did not comply with your Personal Responsibility Contract, failed to appear to establish good cause, and did not advise the Department of your condition in a timely manner for them to consider your extraordinary circumstances.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to reduce your WV Works benefits.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Tracy Long, Family Support Specialist

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

-----,

**Claimant,**

v.

**Action Number: 08-BOR-2432**

**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 April 3, 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 January 13, 2009 on a timely appeal, filed October 7, 2008.

**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  
Tracy Long, Family Support Specialist

Presiding at the Hearing was Todd Thornton, 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 reduce the Claimant's WV Works case due to a sanction.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 13.9

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

**Department's Exhibits:**

- D-1 Home Visit notice, dated August 4, 2008
- D-2 Home Visit notice, dated August 15, 2008
- D-3 Verification request notice, dated September 9, 2008
- D-4 Appointment letter, dated September 10, 2008
- D-5 Notice of First Sanction, dated September 17, 2008, with Good Cause appointment scheduled September 22, 2008
- D-6 Appointment letter, dated September 17, 2008
- D-7 Notice of Second Sanction, dated September 18, 2008, with Good Cause appointment scheduled September 26, 2008
- D-8 Appointment letter, dated September 26, 2008
- D-9 Personal Responsibility Contract (PRC), dated March 19, 2008
- D-10 Letter from -----, M.D., dated October 1, 2008
- D-11 West Virginia Income Maintenance Manual, Chapter 13.9
- D-12 West Virginia Income Maintenance Manual, Chapter 9.21
- D-13 West Virginia Income Maintenance Manual, Chapter 1.25.T
- D-14 West Virginia Income Maintenance Manual, Chapter 24.4.D
- D-15 Rights and Responsibilities (DFA-RR-1) form, dated March 21, 2008

**Claimant's Exhibits:**

- C-1 Letter from -----, M.D., dated October 1, 2008
- C-2 Note from -----

## VII. FINDINGS OF FACT:

- 1) Testimony from the Department confirmed that the Claimant attended WV Works orientation on March 19, 2008, and completed her application on March 21, 2008. The Department indicated that they needed verification from the Claimant that she would be unable to participate in an activity. This verification was initially needed by April 25, 2008, but the Department extended the initial deadline.
- 2) During the month of August 2008, home visits were scheduled with the Claimant (Exhibits D-1 and D-2), but the Department indicated the Claimant was not home for these visits.
- 3) In September 2008, the Department requested verification that the Claimant was unable to participate in an activity for WV Works (Exhibit D-3). Testimony from the Department confirmed that this verification (Exhibits D-10 and C-1) was received, but that it was not received by the October 1, 2008 deadline. Testimony from the Claimant contended that she understood that her medical provider was going to fax the verification to the Department on October 1, 2008, but instead did so on October 2, 2008.
- 4) The Department indicated that the Claimant needed to update her Personal Responsibility Contract, or PRC, and sent three separate appointment letters to the Claimant for this purpose (Exhibits D-4, D-6, and D-8). Testimony confirmed that these appointments were not kept.
- 5) The Department progressively sanctioned the Claimant, issuing a notice of first sanction (Exhibit D-5) on September 17, 2008, and a notice of second sanction (Exhibit D-7) on September 18, 2008. Both notices provided Good Cause appointments for the Claimant, and both provided the sanction reason as “due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).”
- 6) As part of her application, the Claimant signed a PRC (Exhibit D-9) on March 19, 2008. This PRC states, in pertinent part:

**I understand** that I am required to attend any meetings or appointments related to my eligibility for cash assistance and my self-sufficiency goals. These meetings or 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. **or I may be sanctioned.**

- 7) The West Virginia Income Maintenance Manual, Chapter 13.9, defines sanctions as follows:

A. DEFINITION OF SANCTION

NOTE: 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 Offenses = Ineligibility for cash assistance for 3 months.

- 8) The West Virginia Income Maintenance Manual, Chapter 13.9, also provides for the implementation of sanctions, as follows:

13.9 WV WORKS SANCTIONS

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) Testimony from the Department confirmed that Good Cause appointments scheduled for the Claimant were not kept.
- 10) Testimony and evidence provided by the Claimant (Exhibit C-2) indicated that she was in the hospital from September 2, 2008 through September 5, 2008. Testimony from the Claimant further indicated that due to her documented illness (Exhibit C-1), not only was she unable to work or participate in an activity, but she was unable to appear for the visits scheduled by the Department. She indicated that she may have been home during the attempted home visits, but that she was too weak to answer the door. She indicated that she did call the Department worker to advise them of this. The Department indicated that only one phone message – a call on September 30, 2008 – was logged by the Department worker during this period.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy for the WV Works program requires cooperation with the PRC, unless Good Cause is established. The Claimant's PRC required her to keep all scheduled appointments with the Department. The Department made multiple attempts to reach the Claimant, through scheduled home visits, in-office appointments, and, ultimately, through scheduled Good Cause appointments after sanction notices were sent; none of these appointments were kept. Because the Claimant did not keep Good Cause appointments, that could not be explored by the Department. Although the Claimant clearly documented her illness, and indicated that it left her too weak to attend appointments or respond to home visits, the time documented as unavailable was less than one week, and the only attempt to notify the Department of her condition was one telephone call, the day prior to the Department's action to reduce her benefits.
  
- 2) Because the PRC requirements were clearly not met, the Department's action to apply a sanction reducing WV Works benefits is correct.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to reduce WV Works benefits due to a sanction.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ Day of April, 2009.**

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**Todd Thornton**  
**State Hearing Officer**