



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 30, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 26, 2009. Your hearing request was based on the Department of Health and Human Resources' termination of your WV Works benefits due to a third 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, and failed to appear to establish good cause.

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

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Christine Murphy, Family Support Specialist

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

-----,

Claimant,

v.

Action Number: 09-BOR-560

**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 30, 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 February 26, 2009 on a timely appeal, filed December 18, 2008.

It should be noted that benefits have been continued through the hearing process.

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
Christine Murphy, Family Support Specialist

Josh Woodard, Family Support Supervisor

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 close the Claimant's WV Works benefits due to a sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapters 1.25.T; 13.9; 13.10; 24.4.D

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing/Grievance Record Information form and Hearing Request
- D-2 Notice of Third Sanction, dated December 15, 2008, with Good Cause appointment scheduled December 22, 2008
- D-3 Personal Responsibility Contract (PRC), dated October 3, 2008
- D-4 Self Sufficiency Interview form, dated November 13, 2008
- D-5 West Virginia Income Maintenance Manual, Chapters 1.25.T; 13.9; 13.10; 24.4.D

VII. FINDINGS OF FACT:

- 1) The Claimant – a WV Works recipient – was notified on December 15, 2008 (Exhibit D-2) that his WV Works benefits would be terminated. This notice stated, in pertinent part:

1. ACTION: Your WV WORKS benefits will stop. You will not receive this benefit after DECEMBER 2008.

2. REASON: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).

- 2) The notice additionally provided an appointment to establish good cause. Testimony from the Department explained that the specific PRC violation was a time sheet not submitted. Under the required assignments and activities of the Claimant's PRC (Exhibit D-3), "complete and turn in time sheet by 5th of each month" is listed as an ongoing requirement. The PRC was signed by the Claimant and the Department worker on October 3, 2008.

- 3) Testimony from the Claimant explained that the reason for not submitting his time sheet as required was a problem maintaining day care for his son, and the effect this had on his ability to attend class – his required activity for the WV Works program. Testimony from the Department explained that the time sheet in question is for hours in November 2008, and the Self Sufficiency Interview (Exhibit D-4) completed with the Claimant on November 13, 2008 revealed no day care problems at the time. Question #11 on this form asked if the individual had current childcare, and a backup childcare plan; Choices is listed for childcare, and family is listed as a backup. Exhibit D-2 offered a good cause appointment, and testimony revealed that the Claimant did not attend this appointment to offer this as a good cause reason.
- 4) The Claimant testified that he delivered a time sheet to the Department worker. The Department indicated that there was no record of this in the Claimant's file, nothing noted in the data system, and no indication of this on the mail log. The Claimant further testified that there were no signatures on the time sheet; testimony from the Department explained that the time sheets would not have been accepted as valid without signatures.
- 5) The Claimant explained his problems obtaining day care for his son, and that he cannot always rely on family as backup day care. He expressed his need for the WV Works benefits in testimony.
- 6) 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.

- 7) 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.

VIII. CONCLUSION OF LAW:

- 1) Policy for the WV Works program requires cooperation with the PRC, unless good cause is established. The Claimant's PRC required him to provide time sheets to the Department monthly, and he failed to do so. The Claimant explained that there were day care issues affecting his ability to submit the time sheets, but these issues were not expressed during the November 13, 2008 contact with the Department, and the Claimant failed to appear at an appointment scheduled to discuss possible good cause. The Claimant testified that he later turned in the time sheet, but unsigned. The Department clearly acted correctly to sanction and close the Claimant's WV Works benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate 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.

**Todd Thornton
State Hearing Officer**