



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
Post Office Box 2590  
Fairmont, WV 26555-2590

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

May 13, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 29, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your West Virginia Works benefits based on the application of a third-level (3<sup>rd</sup>) program 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. For a third offense and all subsequent offenses, the sanction consists of ineligibility for cash assistance for 3 months or until compliance, whichever is later. 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 reveals that you failed to comply with the requirements on your PRC. Because you were unable to establish good cause for non-compliance, the Agency has correctly proposed that a third-level sanction be applied to your WV Works case.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to apply a sanction in your WV Works case. A 3<sup>rd</sup> sanction will be applied to your WV Works case effective June 1, 2009.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Wanda Morgan, FSS, DHHR

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

-----,

**Claimant,**

v.

**Action Number: 09-BOR-787**

**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 May 13, 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 April 29, 2009 on a timely appeal filed February 25, 2009.

It should be noted that WV Works benefits have continued pending the hearing.

**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

Wanda Morgan, Family Support Specialist (FSS), DHHR

Pam Adams, Family Support Supervisor, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

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

The question to be decided is whether or not the Department was correct in its proposal to terminate the Claimant's benefits and services through the WV Works Program 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 & 24.4

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

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

D-1 Case Comments dated 1/6/09

D-2 WV Works - Personal Responsibility Contract (PRC) dated 1/6/09

D-3 Case Comments dated 1/6/09 – 1/13/09

D-4 WVDHHR Participant Time Sheet for January 2009

D-5 Notice of Decision dated 2/10/09

D-6 Case Comments dated 2/17/09

D-7 Case Comments dated 2/9/09 (3 pages)

D-8 Case Comments dated 2/26/09 (1 page)

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

- 1) On or about February 10, 2009, the Claimant was notified via a Notice of Decision (Exhibit D-5) that the Department was applying a third-level sanction to her WV Works benefits due to failure to comply with the requirements of the Personal Responsibility Contract (PRC) "by failing to complete an assignment." This notice goes on to state that benefits will stop effective 3/09.
- 2) The Department submitted Exhibit D-2, the Claimant's Personal Responsibility Contract, hereinafter PRC, signed by the Claimant on January 6, 2009. The Claimant's signature indicates that she agrees to the terms and conditions listed on page 4 of 4 of the PRC. Among the requirements listed on Exhibit D-2 are – (#3) Turn in time sheet by 5 working day, 2/6/09 (# 4) Start GED Class full time, 24 hrs per week, must start 1/7/09.

- 3) The Department submitted Exhibit D-3, Case Comments dated 1/13/09, to show that the GED instructor contacted the Department and reported the Claimant started GED classes that day. The Department noted that in addition to the Claimant not starting her work assignment as agreed in her PRC (on 1/7/09), the Claimant submitted her Participant Time Sheet late (received 2/9/09 – verified by the fax date on Exhibit D-4 and documentation in Exhibit D-7) and it (Participant Time Sheet, Exhibit D-4) indicates the Claimant attended GED class a total of 22 hours during the eight (8) days GED classes were held in January 2009. The Department acknowledged that several days of classes were cancelled, however, in the five days the Claimant attended, she left early on three (3) of those days and only completed two (2) full days of class.
- 4) The Claimant participated in a good cause meeting on February 17, 2009 with Pam Adams and Ms. Adams documented in Exhibit D-6, Case Comments dated 2/17/09 – “She had no excuse except she said she though (sic) she had only missed three or four days in Jan. She said go ahead and sanction her.”
- 5) The Claimant testified that she didn’t bring her identification with her and that is why she could not start GED classes on January 7, 2009. She stated that she must not have felt well on January 8, 2009 and attended for one hour on January 12, 2009.
- 6) Policy found in Chapter 1.25, T, provides that the PRC form (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the WV WORKS AG 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.
- 7) West Virginia Income Maintenance Manual ' 13.9:  
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.
- 8) West Virgin Income Maintenance Manual ' 13.9 (D) states that 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.
- 9) West Virginia Income Maintenance Manual ' 13.10 sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract. Good cause criteria has not been met.
- 10) West Virginia Income Maintenance Manual ' 13.9 (C) states that the imposition of a sanction may be delayed by a Fair Hearing request. When the Department is upheld, the sanction begins in the month following the Fair Hearing decision.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that refusal or 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.
- 2) When a member of the benefit group does not comply with the requirements found on his/her PRC, a sanction must be imposed unless the worker determines that good cause exists. Policy goes on to state that a third-level sanction and all subsequent offenses result in ineligibility for cash assistance for 3 months or until compliance, whichever is later.
- 3) The evidence confirms that the Claimant failed to start GED classes on January 7, 2009; that her Participant Time Sheet was submitted to the Department after the February 6, 2009 deadline and that she failed to establish good cause for not attending GED classes as directed in her PRC.
- 4) Whereas the Claimant has not established good cause for failing to adhere to her PRC, the Agency has correctly proposed applying a 3<sup>rd</sup> sanction to her WV Works case.
- 5) Pursuant to WV Works Policy, the sanction will be effective June 1, 2009, the month following the Fair Hearing Decision.

**IX. DECISION:**

After reviewing the information presented during the hearing, and the applicable policy and regulations, I am ruling to **uphold** the proposal of the Agency to apply a 3<sup>rd</sup> sanction to your WV Works benefits. This sanction will be effective June 1, 2009.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 13<sup>th</sup> Day of May 2009.**

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**Thomas E. Arnett  
State Hearing Officer**