



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
PO Box 468  
Hamlin, WV 25523

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

July 9, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 11, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your West Virginia Works benefits (cash assistance) based on the application of a second (2<sup>nd</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. For a second offense, the sanction consists of 2/3 reduction in the check amount for 3 months. (West Virginia Income Maintenance Manual Section 13.9) Part II of the PRC, the Self Sufficiency Plan, must be specific enough to provide direction for the client. Each time the SSP is revised on a paper form, the client and the Worker must initial and date the changes. (West Virginia Income Maintenance Manual § 24.4 D)

The information submitted at your hearing demonstrates that the Department failed to update the Self Sufficiency Plan on your PRC correctly with specific information, and also failed to sign, and have you sign, the updated sections to indicate you were aware of the changes.

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department in applying a second (2<sup>nd</sup>) level sanction in your WV WORKS case.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Marcia Jones, [REDACTED] DHHR

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

-----,

**Claimant,**

v.

**Action Number: 09-BOR-903**

**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 June 11, 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 June 11, 2009 on a timely appeal filed March 12, 2009.

**II. PROGRAM PURPOSE:**

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

-----, Claimant's friend

Marcia Jones, Department Representative

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

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

The question to be decided is whether the Department was not correct in its proposal to reduce the Claimant's benefits and services through the WV WORKS Program based on the imposition of a 2<sup>nd</sup> sanction.

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

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

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

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

- D-1 DFA-TS-12 Participant Time Sheet for February 2009
- D-2 Medical appointment notice dated February 3, 2009
- D-3 Medical Instruction Sheet dated February 11, 2009
- D-4 Medical excuse dated February 25, 2009 and Release dated February 11, 2009
- D-5 Family Court of ██████████ County Notice of Hearing for February 25, 2009
- D-6 West Virginia Works Personal Responsibility Contract dated January 6, 2009 Pt. 1
- D-7 West Virginia Works Personal Responsibility Contract dated January 6, 2009 Pt. 2
- D-8 DFA-TS-12 Participant Time Sheet for January 2009
- D-9 Signed statement dated January 13, 2009
- D-10 Bus Pass from Department to Claimant dated January 14, 2009
- D-11 Referral Form to Adult Basic Education Class dated January 14, 2009
- D-12 AFDC Issuance History and Disbursement printout from Rapids dated June 11, 2009
- D-13 Sanction Screen information from Rapids dated June 11, 2009

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

None

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

- 1) On January 6, 2009 the Claimant signed (D-6, D-7) page two (2) and page four (4) of a Personal Responsibility Contract (PRC), hereinafter called PRC, agreeing to attend all activities scheduled by the Department, maintain reliable transportation, report any changes to DHHR within ten (10) days, maintain reliable child care, and submit timesheets by the 5<sup>th</sup> of the following month. The form also included a statement that read "Required weekly participation hours for employment/activity are 70". The Claimant and the case worker agreed that the Claimant would have a few days to decide which activity would be best for her before assignment.
- 2) The Claimant came back to see the case worker on January 13, 2009 and was issued a bus pass (D-10) for one month free transport, and also assigned (D-11) to Kanawha County SPOKES

class that same day. The Department faxed to the SPOKES class a referral form (D-11) that indicated the Claimant would be attending class twenty (20) hours per week and seventy eight (78) hours monthly. The form was dated January 14, 2009, and the beginning date for the class was listed as January 26, 2009. It is unclear whether the Claimant saw this form as her signature is not affixed. The Claimant's PRC was updated with the following assignments:

Retrieve GED certificate bring into office	1/13/09
Register for school at Carver	1/13/09

The Claimant did not sign the updated PRC with the current date indicating she was involved and aware of the changes to her Self Sufficiency Plan.

- 3) The Department contends the Claimant attended only one day during the month of January 2009. She attended her orientation on January 26, 2009. Classes held from January 27, 2009 through January 30, 2009 were not attended by the Claimant. The Department also contends that the Claimant attended (D-1) only thirty one hours during the month of February 2009, which they believe is not in compliance with her PRC agreement (D-6, D-7). The Department added that two (2) absences per month were allowable, and therefore the Claimant was not in compliance with their agreement (D-6, D-7).
- 4) As a result, the Department applied a 2/3 sanction against the Claimant's West Virginia Works cash assistance benefits for the period of April 2009 through June 2009.
- 5) The Claimant provided the Department with certain verifications to explain her absence from class. They included a medical appointment card for the Claimant (D-2) showing she had a "tooth problem" appointment on February 3, 2009 with her dentist, an instruction sheet from [REDACTED] Hospital (D-3) showing she was seen at the hospital on February 11, 2009 for a concussion, a doctor certificate (D-4) for February 24, 2009 showing she was seen by a physician on that date, a medical release (D-4) from [REDACTED] Hospital showing she is excused from school for two days following February 11, 2009, and a Family Court Notice of Hearing (D-5) showing the Claimant had a court appearance on February 25, 2009. Although the Claimant provided excuses for many days in February 2009, there were five (5) days in which she could have attended class and failed to do so. She provided no further excuses for those days.
- 6) The Claimant also provided a statement from an individual dated January 13, 2009 verifying that the Claimant would be babysitting her two small children beginning January 19, 2009 and would be paid fifty dollars (\$50.00) weekly for her efforts. The statement also included that she would be babysitting five (5) days per week and five (5) hours per day. The Department contends that the babysitting job was not an allowable activity for the West Virginia Works cash assistance program and could not be recognized.
- 7) The Claimant contends that she had many obstacles to her attending the class in February 2009. She has two small children that she must transport by bus early in the morning to day care across town before traveling again by bus across town to get to the class. At the end of the day she had to travel back across town to pick up her children and then travel by bus back home. She also states that she had numerous medical and other problems throughout the month that she has documented for the Department (D-2, D-3, D-4, and D-5). She contends that she was

8) 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.

9) 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.

10) West Virginia Income Maintenance Manual Section 24.4 (D) states in pertinent part:

#### DEVELOPMENT OF THE PRC SELF-SUFFICIENCY PLAN

The PRC is a document that consists of 2 parts. Part I contains information and requirements applicable to all Work-Eligible Individuals who are required to sign it. Part II is the Self-Sufficiency Plan which is the result of negotiations between the client and the Worker. The Self-Sufficiency Plan (SSP) is subject to renegotiation throughout the household's receipt of cash assistance. Initial and ongoing assessment produces information that allows the Worker to provide reasonable guidance to the client to attain his goals and forms the basis of the Plan.

All requirements listed on the SSP must be reasonable and appropriate for the individual client.

The SSP must be specific enough to provide direction for the client and must reflect careful analysis of the client's needs and potential. It must also be flexible enough to change as opportunities and situations warrant. Changes in the Occupational goals or activities to meet the client's work requirement require revisions to the SSP. Each time the SSP is revised on a paper form, the client and the Worker must initial and date the changes. When a new SSP is completed, both must sign and date the form.

The client must be provided with a copy of the SSP each time a new one is completed or a revision is made to an existing one.

Although the primary concern should be the development of a meaningful SSP, the form itself is helpful to the client in understanding the expectations. Committing the plan to writing also helps the Worker be more specific about his responsibilities. By signing the PRC, each party agrees to fulfill his respective responsibilities.

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

- 1) 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.
- 2) Policy also clearly states that the PRC, Part 2 – Self Sufficiency Plan, must be specific enough to provide direction for the client, and must be signed by both parties each time a revision is made.
- 3) The evidence reveals that although the Claimant failed to attend the SPOKES class every day, the Department clearly did not update the PRC correctly with specific information about the Claimant's assignment, and clearly did not initial the changes or have the Claimant to initial indicating she was involved and aware of the changes that were made to her PRC on January 13, 2009.

### **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 **reverse** the Agency's proposal to apply a second level sanction to your WV WORKS benefits.

### **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 July, 2009.**

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**Cheryl Henson  
State Hearing Officer**