



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Joe Manchin III  
Governor

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

June 7, 2010

-----  
-----  
-----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 21, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your WV WORKS benefits due to the imposition of 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. These regulations provide that Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the assistance group (WV Income Maintenance Manual § 1.25 T) .

The information submitted at your hearing revealed that you failed to keep a scheduled appointment and did not provide good cause until after the sanction was imposed.

It is the decision of the State Hearing Officer to **Uphold** the action of the Department to terminate your WV WORKS benefits due to the imposition of a sanction.

Sincerely,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Beverly Ballengee, Family Support Supervisor

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-1254**

**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 21, 2010 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.

**II. PROGRAM PURPOSE:**

The Program entitled WV WORKS is administered by the West Virginia Department of Health & Human Resources.

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  
Tammi Cooley, Family Support Specialist

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department's decision to terminate Claimant's WV WORKS benefits was correct.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 1.25 T and 13.9 A

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

**Department's Exhibits:**

- D-1 Personal Responsibility Contract dated August 18, 2009
- D-2 Assessment Appointment Letter dated March 29, 2010
- D-3 Good Cause Letter dated April 16, 2010
- D-4 WV Income Maintenance Manual § 1.25 T
- D-5 WV Income Maintenance Manual § 13.9
- D-6 WV Income Maintenance Manual § 24.4 D
- D-7 Department's Summary

**Claimants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) An appointment for Claimant was scheduled for April 5, 2010 for Claimant to be assigned to a work activity. Tammi Cooley, Claimant's caseworker, spoke with Claimant on March 30, 2010 who advised Ms. Cooley that she would be having surgery sometime in April 2010 and would bring in a doctor's statement to exempt her from participation in a work activity (D-2 and D-7).
- 2) On April 16, 2010 a third level sanction was proposed against Claimant as she had failed to keep her April 5, 2010 appointment. Claimant did not provide a doctor's statement nor contact Ms. Cooley regarding the missed appointment. A good cause letter was issued by the Department on April 16, 2010 for a good cause appointment scheduled for April 23, 2010. Claimant failed to keep the good cause appointment and a third level sanction was imposed (D-3 and D-7).
- 3) Claimant testified that she had a family emergency on April 6, 2010 which prevented her from coming to her assessment appointment. Claimant stated her grandfather was ill and in her distress, forgot to call Ms. Cooley and cancel the appointment.

Claimant stated she never received the good cause letter. She stated she normally does not have problems in receiving her mail. Claimant stated her surgery was rescheduled from April to May 12, 2010 and her doctor was to fax Ms. Cooley a letter advising of this. Claimant admitted that she did not speak with Ms. Cooley about the missed appointment until May 3, 2010.

- 4) Personal Responsibility Contract (PRC), Part 1: Client Responsibilities states (D-1):

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.

- 5) WV Income Maintenance Manual § 1.25 T states:

Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the AG [assistance group]. No sanction may be imposed for failing to adhere to any provision that is not specifically addressed on the PRC at the time the failure occurred.

- 6) WV Income Maintenance Manual § 13.9 A states:

#### 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.

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

- 1) Policy holds that a sanction may be imposed against an individual for failure to comply with any of the requirements as found on the Personal Responsibility Contract.
- 2) Claimant failed to keep her assessment appointment and did not attend her good cause appointment. Although Claimant's testimony indicated she had a family emergency in April 2010 that prevented her from keeping her assessment appointment, this information was not provided to her caseworker until after the sanction had been imposed. It is Claimant's responsibility to inform her caseworker of any changes in her household's circumstances or any barriers that would prevent her from adhering to her Personal Responsibility Contract.
- 3) A third level sanction was correctly imposed against Claimant's WV WORKS benefits for failure to keep a scheduled assessment appointment.

## **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to terminate Claimant's WV WORKS benefits due to the imposition of a sanction.

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

See Attachment

## **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision  
Form IG-BR-29

**ENTERED this 7<sup>th</sup> day of June 2010.**

---

**Kristi Logan  
State Hearing Officer  
Member, Board of Review**