



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Joe Manchin III
Governor

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

October 27, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 25, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your WV WORKS benefits based on the application of a third-level sanction for failing to register with the WV Bureau of Child Support Enforcement (BCSE).

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 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, the sanction consists of ineligibility for cash assistance for 3 months. (West Virginia Income Maintenance Manual § 13.9)

Information submitted at your hearing demonstrates that you failed to comply with the requirements of your Personal Responsibility Contract (PRC).

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to terminate your cash assistance based on the imposition of a third-level sanction in your WV WORKS case. The sanction will be effective December 1, 2010 through February 28, 2011.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Sherry Britt, Family Support Specialist, DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-1146

**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 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 at the Logan County office of the WV Department of Health and Human Resources (DHHR) on August 25, 2010 on a timely appeal filed April 2, 2010.

It should be noted that the Claimant's WV WORKS benefits were continued pending a hearing decision. It should also be noted that this hearing was originally scheduled for June 4, 2010, and was rescheduled at Claimant's request.

II. PROGRAM PURPOSE:

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

-----, Claimant's son (observing)

Sherry Britt, Family Support Specialist, WV DHHR, [REDACTED] County Office

Presiding at the hearing was Stephen M. Baisden, State Hearing Officer and member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department of Health and Human Resources was correct in its proposal to terminate the Claimant's cash assistance benefits provided through the WV WORKS Program based on the imposition of a third-level sanction for failing to register with the Bureau of Child Support Enforcement (BCSE.)

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.25, 13.9, and 15.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 CMCC Screen print from RAPIDS System showing Family Support Supervisor case comments made on April 9, 2010 and April 13, 2010
- D-2 Scheduling letter from the WV BCSE asking Claimant to meet with a Child Support worker on Tuesday, October 20, 2009
- D-3 Scheduling letter from the WV BCSE asking Claimant to meet with a Child Support worker on Friday, November 20, 2009
- D-4 Scheduling letter from the WV BCSE asking Claimant to meet with a Child Support worker on Thursday, February 18, 2010
- D-5 Hand-written notes, dated from February 28, 2010 to April 9, 2010

VII. FINDINGS OF FACT:

- 1) West Virginia Income Maintenance Manual, Chapter 1.25.T states as follows:

The Personal Responsibility Contract (PRC) form is a negotiated contract between each of the adult or emancipated minor members of the WV Words Assistance Group . . . and the Worker, as the representative of the Department. There are 2 parts to the form and each serves a different purpose. Refusal or other failure, without good cause, to sign either part of the form results in ineligibility for the entire AG. Completion and signature of both parts of the form are required prior to approving the WV WORKS AG.

- 2) West Virginia Income Maintenance Manual, Chapter 13.9 states as follows:

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.

1st Offense- 1/3 reduction in the check amount for 3 months.

2nd Offense- 2/3 reduction in the check amount for 3 months.

3rd Offense and all subsequent offenses-Ineligibility for cash assistance for 3 months.

Once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.

- 3) West Virginia Income Maintenance Manual, Chapter 15.3 states as follows:

Federal law mandates that efforts be made to locate absent parents, establish paternity and/or obtain support for the children. The specified relative receiving WV WORKS, or the specified relative included in an AFDC Medicaid or AFDC-Related Medicaid AG, must cooperate with child support activities and redirect to the Bureau for Child Support Enforcement (BCSE) any child support payments received.

- 4) Claimant is a recipient of WV WORKS benefits administered by the WV Department of Health and Human Resources (DHHR.) Department's representative testified that on February 23, 2010, she was notified via an interdepartmental communiqué that Claimant had not cooperated with the WV Bureau of Child Support Enforcement (BCSE) by attending a scheduled appointment to initiate child support proceedings against the father of her younger child. Department's representative scheduled a good cause appointment for Claimant for March 3, 2010, to give Claimant the opportunity to come into the [REDACTED] DHHR office and meet with her worker to discuss the matter of her failure to cooperate with the BCSE. Department's representative sent a letter to Claimant, advising her of the appointment date and time.
- 5) On March 3, 2010, Claimant came into the [REDACTED] County office of the WV DHHR to attend the good cause hearing scheduled by Department's representative on February 23, 2010. Department's representative testified she reminded Claimant that cooperation with the BCSE is a requirement listed on her PRC and that she had not met this requirement. Department's representative testified that she explained to Claimant that she had imposed a third sanction on Claimant's WV WORKS cash assistance; however, she could lift it if Claimant would cooperate with BCSE by meeting with a representative of that agency within the following thirteen (13) days.
- 6) Department's representative testified that she received a telephone call from Claimant on March 31, 2010. She testified that Claimant informed her that she had cooperated with BCSE. Department's representative testified that she told Claimant that she had not received a communiqué from BCSE informing her that Claimant had done this. She testified that later that same day, she received an e-mail from a worker in the BCSE stating that Claimant had cooperated with BCSE on March 29, 2010. Department's representative testified she notified the WV WORKS supervisor that Claimant had cooperated with BCSE after the 13-day period of time had elapsed. She testified that she and supervisor agreed that the sanction had to remain in place due to WV WORKS policy.
- 7) Department's representative testified that she received a Fair Hearing request from Claimant on April 2, 2010. She added that Claimant requested a prehearing conference, which was scheduled for April 9, 2010. She submitted case recordings written by the WV WORKS supervisor indicating Claimant attended the prehearing conference. Case recordings made on April 9, 2010 state as follows:

[Claimant] stated that the reason she failed to comply with BCSE initially was because she did not receive the paperwork that was sent to her via certified mail. Explained that I would contact BCSE to see if the paperwork was sent certified if the signature card had been returned.

Case recordings also by WV WORKS supervisor made on April 13, 2010 state as follows:

Rec'd info from BCSE yesterday . . . [Claimant] was sent a certified letter on 12/28/09. The post office documented 3 notices to pick up certified letter: 12/29, 1/13 and 1/18. [Claimant] did not respond to any of the requests to pick up the letter. She then failed to keep an appointment on 2/18/10. [Claimant] has confirmed that we have the correct mailing address.

- 8) Department's representative testified that the BCSE tried on three separate occasions to give Claimant the opportunity to meet with a worker from that unit. As verification of this, she submitted copies of three appointment letters sent to Claimant. The first letter was dated October 5, 2009 for an appointment scheduled for October 20, 2009 (Exhibit D-2); the second was dated November 12, 2009 for an appointment scheduled for November 20, 2009 (Exhibit D-3) and the third was dated February 10, 2010 for an appointment scheduled for February 18, 2010 (Exhibit D-4.) Department's representative stated that Claimant did not attend any of these scheduled appointments.
- 9) Claimant testified that she attempted to meet with a BCSE worker on March 3, 2010, when Department's representative told her that she was not in compliance with the terms of her PRC. She testified that she was told that she would have to wait for some time because the BCSE workers were in a meeting. She added that because she had to meet her older child's school bus, she had to leave. Claimant did not provide testimony concerning the period of time after March 3, 2010 until the 13-day grace period elapsed on March 16, 2010. Claimant did not provide substantial evidence to refute the Department's testimony.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when a member of the WV WORKS benefit group does not comply with the requirements found on his or her PRC, a sanction must be imposed unless the worker determines that good cause exists.
- 2) Policy states that all adult members of a WV WORKS benefits group must cooperate with the Bureau of Child Support Enforcement (BCSE) in obtaining Child Support for all children in the benefits group whose parents do not reside with them.
- 3) The Department clearly has established that the BCSE made numerous attempts to contact Claimant in order to have her meet with workers in that unit for the purpose of instigating action to obtain Child Support benefits for her children. The Department has established that Claimant did not cooperate with the BCSE by attending these meetings. The Department has also established that when informed she had a final opportunity to cooperate within 13 days from her March 3, 2010 visit to the Logan DHHR, Claimant did not do this.
- 4) The Department was correct in its decision to impose a third-level sanction in the Claimant's WV WORKS case. The sanction will be effective December 1, 2010 through February 28, 2011.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's decision to terminate the Claimant's WV WORKS benefits based on the imposition of a third-level sanction, effective December 1, 2010 through February 28, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of October 2010.

Stephen M. Baisden
State Hearing Officer