



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

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

June 3, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 3, 2010. Your hearing request was based on the Department of Health and Human Resources' reduction of your WV WORKS benefits due to a 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 her 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 establish good cause.

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

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Kristin Ward, Family Support Specialist

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

-----,

Claimant,

v.

Action Number: 10-BOR-1260

**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 3, 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. This fair hearing was convened on June 3, 2010 on a timely appeal, filed May 5, 2010.

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 witness

Kristin Ward, Family Support Specialist

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 impose a WV WORKS sanction, reducing benefits to the Claimant.

V. APPLICABLE POLICY:

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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Summary
- D-2 Personal Responsibility Contract, Part 1 of 2, dated September 10, 2008
- D-3 Personal Responsibility Contract, Part 2 of 2, dated March 16, 2010
- D-4 Notification of sanction, dated February 23, 2010
- D-5 Notification of sanction, dated April 2, 2010
- D-6 Pre-Hearing Conference appointment letter, dated May 7, 2010
- D-7 West Virginia Income Maintenance Manual, Chapter 13.9

VII. FINDINGS OF FACT:

- 1) Kristin Ward, Family Support Specialist for the Department, testified that the Department notified the Claimant (Exhibit D-5) on or about April 2, 2010, that her WV WORKS benefits would be reduced due to a sanction. This sanction was previously noticed (Exhibit D-4), but not imposed. The April 2, 2010 notice states, in pertinent part:

A Personal Responsibility Contract (PRC) sanction has been applied to your CASH ASSISTANCE GROUP EFFECTIVE 5/1/10. THIS IS THE 1ST SANCTION APPLIED TO YOUR CASH ASSISTANCE GROUP AND WILL CONTINUE FOR 3 MONTHS.

THIS SANCTION IS BEING APPLIED DUE TO THE FAILURE OF --
--- to comply with the terms of the Personal Responsibility Contract by
FAILING TO REPORT CHANGES IN LIFE SITUATION.

The letter scheduled an appointment to allow the Claimant to provide good cause for the PRC violation; Ms. Ward testified that the Claimant failed to appear for this appointment.

- 2) On September 10, 2008, the Claimant signed a Personal Responsibility Contract (PRC). This contract lists client responsibilities, and states, in pertinent part (emphasis in original):

I will report changes in my life situation as required on the Rights and Responsibilities section of my application for assistance. Changes may include, but are not limited to, a *change in address, a change in telephone number, someone moving in/out of my home, getting/losing a job, changes in work hours, and any changes in income, earnings, or assets.*

- 3) Ms. Ward testified that the Claimant failed to report the onset of new employment with [REDACTED] on January 14, 2010. This employment was discovered later – on a timesheet received by the Department on February 2, 2010 – but was not timely reporting, as required by the Rights and Responsibilities form. The Claimant and her witness, ----, testified that the Claimant did report this employment in a January 2010, face-to-face interview with Ms. Ward, the Claimant, and [REDACTED]

- 4) The West Virginia Income Maintenance Manual, Chapter 1, Appendix E, provides public forms including the DFA-RR-1, or Rights and Responsibilities form. At item #39C, this form states (emphasis in original):

I agree to notify DHHR of the following changes within **10 days** if:
...[a]nyone obtains/loses employment

- 5) The Claimant testified that when she reported her employment to Ms. Ward in January 2010, Ms. Ward did not request additional verification of income. She testified that, while on WV WORKS in the past, she started employment and was requested to verify income. She testified that, at the time, she thought that income verification might be requested of her at a later date, by mail. Ms. Ward testified that if new employment had been reported at the time, she would have not only requested income verification from the Claimant at the time, she would have reviewed the options for employed WV WORKS recipients with the Claimant.

- 6) The West Virginia Income Maintenance Manual, Chapter 1.25.T, provides for the implementation of sanctions, as follows, in pertinent part:

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. 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. See Section 13.9 for information about sanctions.

- 7) 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy for the WV WORKS program requires cooperation with the PRC, unless good cause is established. The Claimant did not appear for a good cause appointment, and did not attempt to establish good cause; instead, she contended that she did report her employment and, therefore, cooperated with the PRC requirement in question.
- 2) The Claimant clearly expressed an understanding of the income verification needed after reporting the onset of new employment, as she had started a new job previously while receiving WV WORKS and explained the process in testimony. In an attempt to explain the discrepancy between the first instance and the more recent instance of new employment, she testified that she thought verification might be requested by mail. She failed to offer any explanation as to why she did not follow up with her worker when verification was not requested by mail. Additionally, the Claimant did not appear for a good cause appointment to state that she did report her employment.

Ms. Ward's testimony, that she would have responded to the reporting of new employment at the time, both by requesting income verification and redirecting the focus of the interview to address WV WORKS options for employed recipients, is convincing. Ms. Ward's assertion that verification was not requested because the Claimant did not report new employment in a January 2010 face-to-face interview is plausible.

- 3) The Claimant's signed a PRC requiring her to report life changes – including employment – as instructed on the Rights and Responsibilities form. This form required ten-day reporting. The employment was reported indirectly, on a timesheet, more than ten days after onset. The Department's determination that the Claimant violated her PRC is correct, and was correct to establish a sanction reducing 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 apply a sanction reducing the WV WORKS benefits of the Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of June, 2010.

Todd Thornton
State Hearing Officer