



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

August 23, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 15, 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
-----, Family Support Specialist

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

-----,

Claimant,

v.

Action Number: 10-BOR-1531

**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 August 23, 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 July 15, 2010 on a timely appeal, filed June 22, 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

-----, 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; 24.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Sanction notification dated June 11, 2010
- D-2 Hearing/Grievance Record Information form; Hearing request
- D-3 Personal Responsibility Contract, Part 2 of 2, dated May 7, 2009
- D-4 Copy of envelope; May 2010 Participant Time Sheet form; Pre-hearing conference appointment letter
- D-5 Case comments screen prints
- D-6 West Virginia Income Maintenance Manual, Chapters 1.25; 13.9; 24.4
- D-7 Hearing Summary

VII. FINDINGS OF FACT:

- 1) -----, Family Support Specialist for the Department, testified that the Department notified the Claimant (Exhibit D-1) on or about June 11, 2010, that her WV WORKS benefits would be reduced due to a sanction. The notice states, in pertinent part:

A second sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).

The letter additionally provided the specific sanction reason as "FAILING TO COMPLETE AN ASSIGNMENT," and scheduled an appointment to allow the Claimant to provide good cause for the PRC violation; ----- testified that this good cause appointment was ultimately held by phone, and good cause was not granted.

- 2) On May 7, 2009, the Claimant signed a Personal Responsibility Contract (PRC). This contract lists required assignments and activities, including "Time Sheets due to DHHR by 5th of every month." ----- testified that the Claimant did not submit her May 2010 timesheet (Exhibit D-4) to the Department until June 14, 2010. The Claimant did not testify regarding the date her timesheet was mailed, but did testify that for it to have been received by the Department on June 14, 2010, it would had to have been in the mail for seven days; she opined that mail within [REDACTED] West Virginia – where both the Claimant and the Department's local office reside – typically takes one day. --- -- noted that in addition to the Department's date stamp of June 14, 2010, a postmark of June 10, 2010 was on the timesheet envelope (Exhibit D-4).

- 3) The Claimant testified that her timesheet was late, but that she was sick and called and left a message with the Department worker, but did not receive a return call. She testified that after she did not receive a response after two separate calls, she put her timesheet in the mail.
- 4) 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.

- 5) 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. Testimony and evidence clearly demonstrated that the Claimant did not submit a timesheet for May 2010 timely. The Claimant's PRC established the timesheet deadline as the 5th of the following month; both the Department's date stamp and the postmark indicate an untimely submission. The Claimant failed to comply with this requirement of her PRC.

- 2) Policy for WV WORKS additionally requires sanctions against WV WORKS benefits when PRC non-compliance is without good cause. The Claimant testified that she was sick in early June 2010, but the May 2010 form was not required until five days into June 2010. The Claimant had adequate time to either recuperate or make alternate arrangements for submitting the form by the deadline she agreed to on her PRC. Good cause is not established. The Department was correct to apply a sanction reducing the WV WORKS benefits of the Claimant.

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 August, 2010.

Todd Thornton
State Hearing Officer