



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

November 5, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 2, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to apply a first-level sanction against your WV WORKS benefits based on your failure to comply with the requirements of your Personal Responsibility Contract (PRC).

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 PRC, a sanction must be imposed unless it is determined that good cause exists. For a first offense, the sanction consists of reducing the amount of a recipient's cash assistance by one-third (1/3) 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 reduce your cash assistance by one-third based on the imposition of a first-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
Michael Stanley, Family Support Supervisor, DHHR

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

-----,
Claimant,

v.

Action Number: 10-BOR-1552

**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 on September 2, 2010, at the [REDACTED] County office of the WV Department of Health and Human Resources (DHHR) in [REDACTED] WV, on a timely appeal filed June 24, 2010.

It should be noted that the Claimant's WV WORKS benefits were continued pending a hearing decision.

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 mother and witness

Michael Stanley, Family Support Supervisor, WV DHHR, [REDACTED] County Office
Cheryl Beavers, 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.

All participants were placed under oath at the beginning of the hearing.

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 reduce by one-third the Claimant's cash assistance benefits provided through the WV WORKS Program based on the imposition of a first-level sanction for failing to comply with the work activity requirements on his Personal Responsibility Contract (PRC.)

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.25, and 13.9

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Personal Responsibility Contract (PRC) signed by Claimant and Family Support Specialist on November 20, 2009
- D-2 Time sheet from SPOKES class for month of June, 2010, indicating Claimant's total work hours for that month
- D-3 Note from [REDACTED] WV, stating that automobile repairs for Claimant's vehicle were completed in mid-June, 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 13.10.E states as follows:

The following are circumstances that may be experienced by individuals who are not temporarily exempt and not currently in an activity, or who are not meeting the minimum participation hours while in an activity, but have good cause for failing to participate:

...

There is no transportation currently available to the client and all possible sources of transportation have been explored. He must accept appropriate available transportation in the community.

- 4) West Virginia Income Maintenance Manual, Chapter 24.14.C.8 states as follows:

Those who use public transportation are reimbursed for the actual cost of the service.

- 5) 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 November 20, 2010, Claimant and a Family Support Specialist negotiated a PRC as part of his application for the WV WORKS cash assistance program. (Exhibit D-2.) The PRC lists a number of activities Claimant agreed to undertake as part of his participation in WV WORKS. One activity in which Claimant agreed to participate was the Strategic Planning in Occupational Knowledge for Employment and Success (or SPOKES) job readiness program, for 33 hours per week. Claimant signed and dated the PRC indicating that he agreed to perform the listed activities.
- 6) Department's representative presented Claimant's Participant Time Sheet (Exhibit D-2) for June 2010, which showed that Claimant did not attend the SPOKES activity that month. He further testified that the SPOKES instructor had informed him that Claimant was not attending the SPOKES class. He added that a Family Support Specialist visited Claimant's home on June 25, 2010, to determine why Claimant was not attending his assigned activity. He stated that at that time, Claimant was assigned another activity, to begin on July 1, 2010, and that a first sanction was placed on his WV WORKS benefits due to his lack of participation for the month of June.
- 7) Claimant testified that he could not attend his activity because his vehicle was not working and he did not have transportation. He testified that he had received car repair support as a WV WORKS participant. The repairs had been completed, but he testified that his car was not working properly. He testified that he did not want to continue to operate the vehicle before it

was repaired completely because he did not want to take the risk of doing more damage to the vehicle's transmission. Claimant testified that he could not recall if he had called his Family Support Specialist to report that his vehicle was not repaired. He added that he reported this information to his Family Support Specialist during the June 25, 2010, home visit.

- 8) Department's representative submitted a statement from the owner of the garage at which Claimant obtained the vehicle repairs. The statement indicated that Claimant's vehicle repairs were completed in mid-June. Department's representative testified that Claimant had received public transportation bus passes in previous months, and used public transportation to get to and from the SPOKES class in previous months. Claimant replied that his Family Support Specialist did not give him a bus pass for the month of June because his car had been repaired so he did not need it. Department's representative added that there is a personal responsibility that Claimant has to let his Family Support Specialist know when issues such as these arise.

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 participate in a work activity that will help them to become self sufficient, unless good cause exists. Policy further states that good cause for transportation may be granted only if there is no transportation currently available to the client and all possible sources of transportation have been explored.
- 3) Policy states that a WV WORKS recipient may be reimbursed for the cost of public transportation.
- 4) Claimant did not provide testimony or evidence to substantiate his assertion that his sanction was not applied properly. He did not inform his Family Support Specialist that his car was not repaired until June 25, 2010. He did not make use of the public transportation that was available in his community and that he had used in past months because he did not have a bus pass. However, policy would have permitted reimbursement for any money he would have paid out of his own resources for public transportation costs.
- 5) The Department was correct in its decision to impose a first-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 reduce the Claimant's WV WORKS benefits by one-third based on the imposition of a first-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 8th Day of November 2010.

Stephen M. Baisden
State Hearing Officer