



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Joe Manchin III  
Governor

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

August 10, 2010

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

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 9, 2010. Your hearing request was based on the Department of Health and Human Resources' action to terminate your WV WORKS benefits based on the application of a third-level 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 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 action to terminate your cash assistance based on the imposition of a third-level sanction in your WV WORKS case.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review  
Melissa Steele, FSS, DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-1583**

**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 August 9, 2010 on a timely appeal filed July 8, 2010. This hearing was convened via video conference technology.

**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 father

Melissa Steele, Family Support Specialist (FSS), WVDHHR

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department of Health and Human Resources, hereinafter Department, was correct in its action to terminate the Claimant's benefits and services through the WV WORKS Program based on the imposition of a 3<sup>rd</sup> sanction.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 1.25, 13.9, 13.10, 24.4

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

**Department's Exhibits:**

- D-1 WV WORKS Appointment Notice dated May 18, 2010
- D-2 Notice of Decision dated May 29, 2010
- D-3 Personal Responsibility Contract (PRC) dated August 18, 2009
- D-4 West Virginia Income Maintenance Manual, Chapter 13.9
- D-5 West Virginia Income Maintenance Manual, Chapter 24.4
- D-6 West Virginia Income Maintenance Manual, Chapter 1.25

**VII. FINDINGS OF FACT:**

- 1) The Claimant's current PRC was completed in August 2009 (D-3). Because the Claimant had a newborn when this PRC was completed, she was exempt from a work activity until May 31, 2010.
- 2) On or about May 18, 2010, the Claimant was notified of a WV WORKS appointment (D-1) scheduled on May 24, 2010 at 11:00 a.m. in the [REDACTED] County DHHR Office. The purpose of this appointment was to assign the Claimant to a work activity. The Claimant failed to appear for this appointment and she was subsequently sent a Notice of Decision (D-2) on May 28, 2010 advising of a third-level sanction. This notice states, in pertinent part:

Your WV WORKS /WVEAP benefits will stop. You will not receive this benefit after June 2010.

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

This correspondence further indicates that a good cause interview was scheduled for the Claimant on June 4, 2010 at 3:30.

- 3) The Claimant purported that she was staying with her baby's father when the notice letter was sent to her grandmother's address [REDACTED] advising of the May 24, 2010 appointment. She testified that her mother contacted her and told her that she missed an appointment, so she [Claimant] and her boyfriend reportedly brought information to the DHHR office to verify that her baby was ill. The Claimant contends that her baby's illness was why she missed the appointment on May 24, 2010. The Claimant indicated she did not receive the sanction notice (D-2) and her father testified that mail received at their residence is often mishandled or lost. The Claimant's father reported that the Claimant did not receive the sanction notice. The Claimant failed to appear for her schedule good cause interview on June 4, 2010 and she contacted her worker only after she realized she did not receive any cash benefits on July 1, 2010.
- 4) Melissa Steele testified that she was contacted by the Claimant after she missed the May 24, 2010 appointment and a new appointment was scheduled on May 27, 2010 over the phone. Ms. Steele purported that after the Claimant missed second scheduled appointment on May 27, 2010, the Claimant was notified of the impending third sanction in Exhibit D-2. Ms. Steele further reported that there is nothing in the Claimant's record to indicate she brought any information in verifying that her child was ill.
- 5) The Claimant's current PRC (D-3) includes the following requirements:

The second bullet on part 1 of 2 of the PRC, states – "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.

Part 2 of 2 of the PRC states – "Keep all scheduled appointments with DHHR.
- 6) Policy found in Chapter 1.25, T, of the West Virginia Income Maintenance Manual provides that the PRC form (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the WV WORKS AG and the Worker. Failure, without good cause, to adhere to the responsibilities contained in Part 1 of the PRC results in imposition of a sanction against the benefit group. Refusal or other failure, without good cause, to adhere to the self-sufficiency plan (Part 2 of the PRC) results in imposition of a sanction against the benefit group.
- 7) West Virginia Income Maintenance Manual, Chapter 13.9:

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.

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

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

3<sup>rd</sup> 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.

- 8) The West Virginia Income Maintenance Manual, Chapter 13.10, sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract. This policy goes on to state that the worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his ability, understands the requirements, and the sanction process. The Worker has considerable discretion in imposing a sanction.

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

- 1) Policy states that when a member of the benefit group does not comply with the requirements found on his/her PRC, a sanction must be imposed unless the worker determines that good cause exists. A third-level sanction results in closure/termination of cash assistance for three months. While there are specific circumstances noted in policy for which good cause can be granted, policy goes on to state that the worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his ability, understands the requirements, and the sanction process. The worker has considerable discretion in imposing a sanction. Policy goes on to note once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.
- 2) The Claimant's reason for appealing the Department's proposal to apply a third sanction in her WV WORKS case stems from her contention that she was neither notified of the scheduled appointment nor the third sanction because she did not receive written notice from the Department. The facts of this case, however, indicate that the Claimant did not receive written notice because she was living at another address with the father of her child. It is unclear how the contention can be made that the Department is at fault for failure to notify when the Claimant failed to provide the Department with her current address and mail received at her grandmother's home is often mishandled or lost. The Department demonstrated a willingness to assist the Claimant by verbally rescheduling the appointment on May 27, 2010 and the Claimant again failed to appear. There was no consideration given to the Claimant's contention that her child was ill because even if verified, the Claimant was not aware that she missed the May 24, 2010 appointment until her mother told her. Therefore, her child's illness would have had no bearing on whether or not she appeared for her scheduled appointment. Upon consideration of the facts in this case, the Claimant's appeal is without merit.
- 3) The Department's decision to impose a third-level sanction in the Claimant's WV WORKS case effective July 2010 is therefore affirmed.

### **IX. DECISION:**

After reviewing the evidence presented during the hearing, and the applicable policy and regulations, 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.

**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.**

---

**Thomas E. Arnett  
State Hearing Officer**