



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General**

**Joe Manchin III  
Governor**

**Board of Review  
P.O. Box 1736  
Romney, WV 26757**

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

September 2, 2010

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

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 19, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to sanction and terminate your WV WORKS assistance based on your non-compliance with the work participation requirements of your Personal Responsibility Contract.

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 WV WORKS is based on current policy and regulations. These regulations provide that WV WORKS is a work participation program. When a member of the assistance group does not comply with the requirements on the Personal Responsibility Contract or PRC, a sanction must be imposed unless a determination of good cause exists. Sanctions are applied in the form of benefit reductions with third and subsequent offenses resulting in the termination of the WV WORKS benefits (West Virginia Income Maintenance Manual Chapter 13.9).

The information which was submitted at your hearing revealed that you failed to comply with the requirements outlined in your Personal Responsibility Contract.

It is the decision of the State Hearing Officer to Uphold the action of the Department to terminate your WV WORKS assistance.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Cynthia Myers, FSS

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-1609**

**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 fair hearing was convened on August 19, 2010 on a timely appeal, filed June 8, 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  
Cynthia Myers, Family Support Supervisor

Presiding at the hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

It shall be noted that this hearing was conducted electronically by video conference.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its decision to terminate the Claimant's WV WORKS assistance.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual 13.9

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

**Department's Exhibits:**

- D-1 WV WORKS Personal Responsibility Contract dated April 16, 2010
- D-2 West Virginia Income Maintenance Manual Chapter 13.9
- D-3 West Virginia Income Maintenance Manual Chapter 19.2

**VII. FINDINGS OF FACT:**

- 1) On April 16, 2010, the Claimant was approved for assistance and benefits under the WV WORKS program. As part of the WV WORKS benefit application, the Claimant completed a Personal Responsibility Contract, hereinafter PRC (Exhibit D-1) which documents the Claimant's assigned activities in accordance with her participation with the WV WORKS program. Exhibit D-1 documents the Claimant's assigned activities as:

- Notify worker of any changes beginning 4/16/10
- Keep all scheduled appointments, interviews and activities beginning 4/16/10
- Minimum of 128 hours per month in core activity beginning 4/16/10
- Time sheets due by 5<sup>th</sup> of each month beginning 4/16/10
- Take Emotional Health Inventory at DHHR at 9:30 a.m. 4/28/10
- 45 day home visit at 3:00 at your residence 4/29/10
- Verify work activity no later than 4/26/10

The Claimant signed the PRC agreement acknowledging her requirement to participate with all outlined activities. By signing the documentation, the Claimant acknowledged her understanding that her failure to cooperate with the documented requirements in the PRC would result in a penalty against her benefits.

- 2) Ms. Cynthia Myers, Family Support Supervisor testified that the Claimant failed to adhere to the requirements outlined in her PRC, as she failed to report her community service activity by the deadline date of April 26, 2010. As a result of the Claimant's non-compliance, the Department sanctioned the Claimant's WV WORKS assistance. On May 13, 2010, a good cause appointment was scheduled for the Claimant to discuss the sanction. Ms. Myers stated that the Claimant failed to attend the good cause hearing and the imposed sanction remained in effect based on the Claimant's absence and failure to provide good cause for the non-compliance.
- 3) On June 8, 2010, the Claimant submitted an application for Emergency Assistance with the Department. Ms. Myers purported that the Claimant's Emergency Assistance application was denied, as she was currently serving a WV WORKS sanction. The Claimant submitted a pre-hearing conference request with the Department to address only the WV WORKS sanction.

During the pre-hearing conference, the Claimant indicated that she was involved in domestic issues, which law enforcement was currently investigating. Additionally, the Claimant informed Ms. Myers that she wished to prove herself to the Department and indicated that she could participate with the required volunteer work. Ms. Myers testified that she afforded the Claimant an additional one week period to obtain and participate with the required volunteer work. Ms. Myers required that the Claimant report back to her on July 8, 2010 with the status of her participation and to document her compliance with program work requirements. According to Ms. Myers' testimony, the Claimant phoned her prior to the scheduled appointment and indicated that she would not be able to attend such appointment. Ms. Myers stated that the Claimant cited health reason which occurred over the weekend prior to the scheduled meeting as to her reasoning for not attending the additional good cause appointment. The Claimant did not submit information concerning her participation in a work activity, but informed Ms. Myers that she submitted applications for employment during the additional timeframe and was awaiting responses to her employment inquiries.

- 4) The Claimant stated that she did not secure the necessary work participation by the established deadline as the organization, for which she applied, required a criminal background investigation. The Claimant stated that she was awaiting the results from the concluded investigation. The Claimant acknowledged her understanding that she had applied for volunteer work and did not secure the necessary participation requirement. The Claimant asserted that she was involved in a domestic incident on May 6, 2010 and was experiencing a state of depression as a result of the incident. The Claimant testified that during her depressed state she missed numerous appointments, including the good cause appointment scheduled for May 13, 2010. On July 16, 2010, the Claimant stated that she obtained volunteer work at the local library. The Claimant indicated that she provided verification concerning the volunteer work to the Department on the same date. Ms. Myers indicated that there was no record of the Claimant's submission of verification of the volunteer work. Ms. Myers purported that the verifications of participation were due two months prior and the late submission of such verifications would not change the position of the Department as the established deadlines and good cause periods had expired. The Claimant maintains that she does have a volunteer work activity in place in which she can participate to fulfill the requirements established by policy. The Claimant stated that it is necessary for her to keep the WV WORKS benefits as she has no other potential resources to provide for her son.

- 5) West Virginia Income Maintenance Manual Chapter 13.9 documents in pertinent part:

When a member of the AG or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC, a sanction must be imposed unless the Worker determines that good cause exists.

...

#### Definitions of Sanction

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 3<sup>rd</sup> or subsequent offense, termination of benefits. The amount of the benefit reduction is a fixed amount and is determined as follows:

1<sup>st</sup> Offense = 1/3 reduction in the benefit amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months.

2<sup>nd</sup> 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 2<sup>nd</sup> 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.

3<sup>rd</sup> and All subsequent Offenses = Ineligibility for cash assistance for 3 months. All benefit reductions due to imposition of a sanction require advance notice. Unless the client shows good cause for non-compliance, the sanction is imposed. This is true even if the client complies after the notice is sent but before the sanction is effective.

Once a reduction in benefits or ineligibility is imposed, i.e. after expiration of the advance notice period, the reduction or ineligibility remains in effect for the predetermined number of months, regardless of case status.

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

- 1) Policy dictates that unless good cause is established, any non-compliance with the Personal Responsibility Contract requires a sanction to the WV WORKS benefit. Sanctions are imposed in the form of benefit reductions with a third sanction resulting in a termination, or ineligibility for cash assistance, for three months.
- 2) The Department contends that the Claimant's failure to secure and participate in a work-activity was in direct non-compliance with her corresponding PRC. The Department provided testimony to indicate that a home visit was completed and the Claimant was afforded the opportunity to establish good cause to remedy her non-compliance, in which the Claimant failed to appear and did not provided good cause. Additionally, the Department took into account the circumstances surrounding the Claimant's non-compliance and afforded the Claimant an additional opportunity to adhere to the outlined requirements of the PRC, in which the Claimant also failed appear to establish good cause.

The Claimant's May 6, 2010 domestic issues occurred after the completion of the PRC and the imposition of the contested sanction. These issues do not directly correlate to her non-compliance of April 26, 2010. The Department presented the Claimant with two separate opportunities to establish good cause concerning her non-compliance with program, which the Claimant failed to attend to rectify the imposed sanction on both occasions. Based on the Claimant's failure to adhere to the PRC and to cooperate with the work requirement, the Department acted correctly in its decision not to remove the imposed sanction and terminate the Claimant's WV WORKS assistance.

- 3) As the Claimant failed to comply with the requirements outlined in the PRC and failed to establish good cause concerning the non-compliance, the Department's decision to sanction the Claimant's WV WORKS assistance is hereby affirmed.

**IX. DECISION:**

It is the decision of the State Hearing officer to uphold the decision of the Department to apply a sanction and terminate the Claimant's WV WORKS assistance.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ day of September 2010.**

---

**Eric L. Phillips**  
**State Hearing Officer**