



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Joe Manchin III  
Governor

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

September 27, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 8, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your WV WORKS cash assistance effective July 1, 2010 based on the imposition of a third (3<sup>rd</sup>) 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 West Virginia 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. The client must be given the opportunity to establish good cause. For a third offense, the sanction consists of termination of the check benefit for 3 months. Once a sanction has been imposed, it cannot be stopped until the appropriate action is taken or the appropriate time has elapsed, whichever is later. (West Virginia Income Maintenance Manual § 13.9)

The information submitted at your hearing demonstrates that you failed to submit a time sheet for the month of May 2010 by June 5, 2010 as agreed upon when you signed your PRC on April 9, 2010. You also did not work the required twenty (20) hours at Wee Care Day Care as agreed.

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to impose a third (3<sup>rd</sup>) level sanction in your WV WORKS case effective July 1, 2010.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Scott Hudson, [REDACTED] DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-1802**

**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 convened on September 8, 2010 on a timely appeal filed August 17, 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  
Scott Hudson, Department Representative  
-----, Department witness

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department was correct in its decision to terminate the Claimant's benefits and services through the WV WORKS Program effective July 1, 2010 based on the imposition of a 3<sup>rd</sup> level sanction.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 1.25, 13.9, 13.10, 24.3 & 24.4

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

##### **Department's Exhibits:**

- D-1 Notification letter dated June 16, 2010
- D-2 Hearing request dated August 17, 2010
- D-3 Personal Responsibility Contract signed April 9, 2010
- D-4 WV Income Maintenance Manual Section 13.9
- D-5 Case Comments from RAPIDS computer system
- D-6 RAPIDS computer information regarding home visit and case comments

##### **Claimant's Exhibits:**

- C-1 Letter from WeeCare Day Care Center dated August 27, 2010

#### **VII. FINDINGS OF FACT:**

- 1) The Claimant was actively receiving WV WORKS cash assistance when on April 9, 2010 she signed a Personal Responsibility Contract, hereinafter PRC, indicating her agreement to participate in the following assignments/activities:

- Keep all appointments with DHHR and vendors
- Report life changes within 10 days
- Be available for scheduled home visits
- Complete 85 monthly activity hours
- Cooperate with BCSE (Bureau for Child Support Enforcement)
- Submit timesheets to DHHR by the 5<sup>th</sup> of month

She also indicated with her signature that she understood if she failed to cooperate by participating with all the assignments/activities listed that she would be penalized.

- 2) The Department contends the Claimant did not submit a May 2010 time sheet by June 5, 2010 to verify participation, and on June 16, 2010 it sent her a notification letter which included the following pertinent information:

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

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

You and your family will be ineligible for WV WORKS benefits for 3 months.

This sanction is being applied due to the failure of ----- to meet the terms of her Personal Responsibility Contract by FAILING TO ATTEND AN ASSIGNED ACTIVITY.

We want to resolve this issue and determine if you had good cause for not meeting the terms of your contract.

We have scheduled a GOOD CAUSE interview for ----- on 06-24-10 at 10:00 at the office address listed above.

If this appointment is not kept, the sanction listed above WILL be applied to your benefits.

- 3) The Claimant testified that she did not appear for the June 24, 2010 good cause interview. She added that she submitted the May 2010 time sheet to the Department on June 5, 2010, but also acknowledged that she did not work all of the assigned hours for that month. She stated that she started to work at [REDACTED] "the last of May". The date of June 5, 2010 occurred on Saturday, a day the Department is not open for business.
- 4) The Claimant submitted a letter from [REDACTED] dated August 27, 2010 in which the Director states that the Claimant volunteered there from the month of June until the first week of August 2010. This does not match the Claimant's testimony in which she purports to have started work there "the last of May."
- 5) The Department's witness, -----, testified that she is the employee who records all incoming mail for the Department into a data system. She testified that she reviewed her records and could find no entry to show that the Claimant submitted any documents to the Department during the month of June 2010.
- 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 (assistance group) 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 section 24.3 states in pertinent part:

Each adult and emancipated minor who receives WV WORKS benefits and non-recipient Work-Eligible individual must meet a work requirement at a minimum rate of participation.

One parent families include, but are not limited to, the following situations:

- Families with only 1 parent living in the home, whether he is included in the AG or is a non-recipient Work-Eligible Individual

Workers must determine whether absences are excused or unexcused.

All missed time whether excused or unexcused, must be made up within the month in which it is missed. When it is impossible to make up time missed, the Worker must decide if the absence is excused or unexcused.

Excused absences of up to 16 hours/month, not to exceed a maximum of 80 hours in the 12-month period, including the current and the preceding 11 months, may be counted as hours worked in that month.

8) West Virginia Income Maintenance Manual section 13.9 states:

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 or until compliance, whichever is later.

The client must also be given the opportunity to establish Good Cause.

9) West Virginia Income Maintenance Manual 24.4 states:

The Worker must assist the client in all reasonable ways to achieve self-sufficiency. To accomplish this, the Worker must assess the client's knowledge and skills, work with the client and make informed recommendations about courses of action appropriate for each individual to develop a plan that is expected to lead to self-sufficiency. In addition, he must enter into an agreement with the client concerning his involvement in the process of becoming self-sufficient, monitor the client's progress to determine changing needs and the need for support service payments and take appropriate follow-up action based on the client's actions.

To meet the goals of the WV WORKS Program, a worker performs the following activities for WV WORKS families:

- Negotiates the PRC with the client to determine the best means to
- achieve self-sufficiency and accept personal responsibility.
- Monitors compliance with the PRC
- Determines good cause for failure to comply with the PRC
- Applies sanctions as appropriate

10) West Virginia Income Maintenance Manual Section 13.10 states in pertinent part:

Failure or refusal to comply, without good cause, results in imposition of a sanction. When the Worker discovers the failure or refusal, a notice of adverse action must be issued. When a letter is mailed scheduling the good cause interview, the Worker must allow no less than 7 calendar days. This period begins the day following the date the letter is requested in RAPIDS, or the day following the date a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the client. If the appointment is scheduled for a date prior to the 7 calendar days, the participant and the Worker must agree on the appointment date.

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

- 1) The purpose of this hearing is to determine whether the Department, with the information available to them, correctly applied a 3<sup>rd</sup> level sanction against the Claimant effective July 1, 2010 which resulted in termination of her WV WORKS cash assistance for three months.
- 2) Policy provides that the Claimant is obligated to negotiate and sign a PRC before becoming eligible for WV WORKS cash assistance. The Claimant is then obligated to abide by the terms and conditions of the agreement in order to maintain eligibility for WV WORKS cash assistance. Failure to comply results in a sanction unless good cause is found. After the first two sanctions have been applied, subsequent sanctions require total case closure for at least three months or until compliance is achieved.
- 3) The Claimant clearly entered into an agreement by signing the PRC in which she agreed to complete eighty five (85) hours in an activity monthly and to provide time sheets to the Department by the fifth (5<sup>th</sup>) of the month.
- 4) The evidence is clear in that the Claimant did not submit a time sheet to the Department for her May 2010 participation by June 5, 2010. Additionally, she failed to work all assigned hours in May 2010. Although the Claimant testified that she did submit the time sheet on June 5, 2010 the evidence does not support this claim. The Department's offices were not open on June 5, 2010, and there is no evidence to support she submitted any documents during the month of June 2010. The Claimant also testified that she did not work the required agreed upon hours during May 2010.
- 5) The Claimant did not appear for her good cause appointment in order to discuss whether good cause existed prior to imposition of the sanction. She clearly was notified of this appointment and gave no explanation as to why she chose not to appear.

- 6) The Department clearly followed policy and fulfilled its obligation to the Claimant during this process, and with the information available to it at the time, correctly imposed a 3<sup>rd</sup> sanction against the Claimant.

**IX. DECISION:**

After reviewing the information presented during the hearing, and the applicable policy and regulations, it is the ruling of the State Hearings Office to **uphold** the Agency's decision to apply a third level sanction to your WV WORKS benefits effective July 1, 2010.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 27<sup>th</sup> Day of September, 2010.**

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**Cheryl Henson  
State Hearing Officer**