



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

April 14, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 22, 2010. Your hearing request was based on the Department of Health and Human Resources' reduction of your WV WORKS benefits and termination of Medicaid 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 both the WV WORKS Program and Medicaid 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), and that for Medicaid, the responsible adult included in any Medicaid coverage group must cooperate with the Bureau for Child Support Enforcement (West Virginia Income Maintenance Manual, Chapter 16.1.D).

The information submitted at your hearing revealed that you did not comply with the Medicaid or Personal Responsibility Contract requirements to cooperate with the Bureau for Child Support Enforcement, 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, and termination of Medicaid benefits.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Betty White, Family Support Specialist

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

-----,

**Claimant,**

**v.**

**Action Numbers: 09-BOR-2204  
09-BOR-2205**

**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 April 14, 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 January 22, 2010 on a timely appeal, filed November 10, 2009.

**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.

The Department provides Medicaid to Qualified Children born prior to the federal eligibility date of 10/01/83. This was mandated by the State Legislature and required a waiver from the federal regulations to implement. These children are Qualified Children in every way except their age. They are referred to as Medicaid Expansion cases because the approved waiver allowed the Department to expand Qualified Child Medicaid coverage to more children.

### **III. PARTICIPANTS:**

-----, Claimant  
Betty White, 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. QUESTIONS TO BE DECIDED:**

The questions to be decided are 1) whether or not the Department was correct to impose a WV WORKS sanction, reducing benefits to the Claimant, and 2) whether or not the Department was correct to terminate Medicaid – both due to non-cooperation with the Bureau for Child Support Enforcement.

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

West Virginia Income Maintenance Manual, Chapters 1.25.T; 13.9; 13.10; 24.4.D; 16.1.D

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

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

- D-1 Referral and Communications Form [REDACTED] County Family Court Dismissal Order
- D-2 Notification letter, dated November 2, 2009
- D-3 WV WORKS Personal Responsibility Contract, dated July 22, 2009
- D-4 West Virginia Income Maintenance Manual, Chapters 1.25.T

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

- 1) Betty White, Family Support Specialist for the Department, testified that a memo (Exhibit D-1) was issued to her on October 22, 2009 from the Department's Bureau for Child Support Enforcement (BCSE), requesting a sanction due to non-cooperation with BCSE. This memo states, in pertinent part:

Please sanction the customer from all mandatory benefits, both Tanf [*sic*] and Med. [*sic*] as she failed to cooperate with BCSE by attending a court hearing.

The exhibit includes a dismissal order from the Family Court of [REDACTED] County, West Virginia, noting that the Claimant failed to appear for a scheduled hearing on September 30, 2009.

- 2) On or about November 2, 2009, the Department notified the Claimant (Exhibit D-2) of a WV WORKS sanction and scheduled a good cause appointment date of November 9, 2009. This notice states, in pertinent part:

This sanction is being applied due to the failure of ----- to meet the terms of the Personal Responsibility Contract by FAILING TO COOPERATE W/BUREAU [*sic*] CHILD SUPPORT ENFORCEMENT.

On the same date, notification regarding the Claimant's Medicaid was issued. The notification listed the Claimant as an ineligible individual for Medicaid, and provided the reason as "Not cooperating with medical support liability requirements."

- 3) The Claimant signed a Personal Responsibility Contract (PRC) on July 22, 2009 (Exhibit D-3). This document lists client responsibilities on the first page, and states, in pertinent part:

I will help to collect child support for my child(ren). Unless good cause exists, this means helping to find the parent(s) of my child(ren) if the parent(s) does not live with me and my child(ren), helping to determine who my child(ren)'s father is, if it has not yet been determined, and helping to enforce court orders for my child(ren)'s support. I **understand** any child support received by me or my child(ren) must be sent to the WV DHHR, Bureau for Child Support Enforcement (BCSE) immediately upon receipt. If I fail to redirect these payments, I **understand** I will be sanctioned.

- 4) The Claimant testified that she was having problems receiving her mail at the time, and was confused by the correspondence she did receive from the Department.
- 5) The West Virginia Income Maintenance Manual, Chapter 16.1.D, explains the BCSE cooperation requirement for Medicaid as follows, in pertinent part:

#### **D. CHILD SUPPORT REQUIREMENTS AND PROCEDURES**

Federal law mandates that efforts be made to locate absent parents, establish paternity and obtain medical support for dependent children who receive Medicaid.

The responsible adult included in any Medicaid coverage group must cooperate with BCSE.

At §16.1.D.6, penalties for failure to cooperate are explained as follows, in pertinent part:

The penalty is as follows:

The parent, other caretaker or responsible adult who failed to cooperate with BCSE is ineligible for Medicaid. The penalty is applied whether or not the adult and child receive Medicaid under the same coverage group.

- 6) 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.

- 7) 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.

- 8) The West Virginia Income Maintenance Manual, Chapter 13.10 discusses good cause as follows, in pertinent part:

Some reasons for granting good cause for temporarily not meeting participation requirements are life events or problems such as, but not limited to:

- The death of a spouse, parent, child, or stepchild.
- In accordance with the Family and Medical Leave Act (FMLA) of 1993, an acute, life threatening illness of a spouse, parent, or child that requires the client's immediate attention. This does not include individuals who are exempt from participation due to caring for a disabled family member as outlined in section 13.8.
- The minimum suitability standards for the specific activity are not met. See Sections 24.5 – 24.13 for minimum requirements. If none are listed for the activity, the Worker must determine if the activity placed unreasonable requirements on the client. Individuals granted good cause for this reason must be scheduled an appointment or home visit to review the situation and possible PRC update.

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. The Worker may determine that the requirement was inappropriate based upon additional assessment. An appointment to update the PRC and place the individual in another component must be scheduled as soon as possible. In addition, the Worker may determine that not applying a sanction in a particular situation provides more motivation for future participation than the imposition of a sanction. However, once a sanction has been imposed, it cannot be stopped, until the appropriate time has elapsed.

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

- 1) Policy for the WV WORKS program requires cooperation with the PRC, unless good cause is established. The PRC required cooperation with BCSE and the Claimant failed to do so. Evidence clearly showed that the Claimant did not appear for a court hearing, and had no good cause for doing so. The Department was correct to sanction the WV WORKS case, reducing the Claimant's benefits.
- 2) Medicaid policy similarly requires cooperation with BCSE, and the penalty for failure to cooperate is termination of Medicaid benefits for the parent or responsible adult – in this case, the Claimant. The Department was correct to terminate the Medicaid 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, and to additionally terminate the Medicaid 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 April, 2010.**

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**Todd Thornton**  
**State Hearing Officer**