



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

March 12, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 12, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your West Virginia Works (WV WORKS) cash assistance based on the application of a fourth (4th) 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. For a third or subsequent offense, the sanction consists of termination of the check 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 your wife failed to comply with the requirements on her PRC. Specifically, she failed to take the written driver's license test as agreed. Your wife is an adult participant in your WV WORKS case and required to comply with the agreements on her PRC.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department in terminating your WV WORKS cash assistance by applying a fourth (4th) sanction in your WV WORKS case.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Martha Cooper, [REDACTED] DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-2278

**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 March 11, 2010 on a timely appeal filed November 25, 2009. This hearing was originally scheduled February 9, 2009 but was continued due to a medical issue with the Hearing Officer.

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 witness

Martha Cooper, Income Maintenance Worker, Department Representative

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 proposal to terminate the Claimant's benefits and services through the WV WORKS Program based on the imposition of a fourth (4th) offense sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.25, 13.9

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Personal Responsibility Contract signed 10/02/09
- D-2 Self Sufficiency Appraisal form dated 10/01/09
- D-3 WV Income Maintenance Manual Section 24.2
- D-4 WV Income Maintenance Manual Section 13.9
- D-5 Notification letter dated November 9, 2009, case comments, Electronic Benefit Transaction (EBT) activity

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) On October 2, 2009 the Claimant's wife, -----, signed page four (4) of a Personal Responsibility Contract (D-1), hereinafter called PRC agreeing to study for her driver's license test and take the test before October 31, 2009 or be sanctioned. The form also indicated she agreed to stay with her husband at all times until he goes to see his physician on October 15, 2009. In addition, the form states she understands and agrees to cooperate/participate with all the assignments/activities listed and that if she does not cooperate she will be penalized. In the section marked "CHALLENGES/BARRIERS" the Department listed the economy and the Claimant's health as issues or challenges.
- 2) The Claimant's wife completed a Self-Sufficiency Appraisal form (D-2) on October 1, 2009. She answered numerous questions about herself, including that she does not have a valid driver's license. She also indicated on this form that she would like the Department to help her with transportation assistance, education and/or training, an eye exam, and dental treatment.
- 3) The Claimant's wife was interviewed again by the Department on November 2, 2009 at which time she informed the worker that she did not take the driver's license test. She told the worker that she was delayed because she had to apply for a replacement social security number as evidence of identity and did not receive her social security number until October 28, 2009.

She also offered that her son was in visiting from the military and she did not have time to take the test. She also indicated that she is afraid to drive because of a past traumatic experience in an automobile accident.

- 4) The Department's Income Maintenance Specialist, Martha Cooper, testified that she informed the Claimant and his wife on November 2, 2009 that she was terminating the Claimant's WV WORKS cash assistance due to the application of a sanction. She stated that this was the Claimant's fourth (4th) offense which did not require the Department to conduct a home visit prior to imposing the penalty. She testified that she did not find good cause in the Claimant's reasoning for not taking the written test as agreed.
- 5) The Claimant's wife testified that she needed her social security number prior to taking the written driver's license test and did not receive this until October 28, 2009. She stated the main reason she didn't take the written test was because of her fear of driving. She stated she didn't see any reason she should take the test if she didn't plan to drive.
- 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 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.
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 or until compliance, whichever is later.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that failure, without good cause, to adhere to the responsibilities contained in Part 1 or Part 2 of the PRC results in imposition of a sanction against the benefit group. A sanction must be imposed unless the worker determines that good cause exists.
- 2) The evidence reveals that the Claimant failed to take the written driver's license test as agreed. By signing the PRC she agreed to take the test by October 31, 2009. She failed to do so.
- 3) There is no good cause found. The Claimant stated that she didn't obtain the proper identification needed to take the test until October 28, 2009; however, she had several days after receipt of the social security card in which to take the test. She clearly failed to honor her agreement with the Department. The Claimant's purported fear of driving would not have prohibited her from taking a written test.

- 4) The Department was correct in its decision to terminate the Claimant's WV WORKS due to a fourth offense sanction.

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 proposal to terminate your WV WORKS cash assistance based on the application of a fourth (4th) offense sanction.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of March, 2010.

**Cheryl Henson
State Hearing Officer**