



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

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

July 19, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 19, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your West Virginia (WV) WORKS cash assistance based on the imposition of a second (2nd) 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. The client must be given the opportunity to establish good cause. For a second offense, the sanction consists of 2/3 reduction of the check benefit for 3 months. (West Virginia Income Maintenance Manual §13.9)

The information submitted at your hearing demonstrates that the Department was correct in applying a second (2nd) level sanction against your WV WORKS cash assistance benefits.

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to impose a second (2nd) level 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
Ben Samms, [REDACTED] DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1467

**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 West Virginia Department of Health and Human Resources' Common Chapters Manual, in Chapter 700. This hearing convened on July 19, 2012.

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

Ben Samms, 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 decision to impose a second (2nd) level sanction against the Claimant.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §1.25, 13.9 and 24.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Excerpts from West Virginia Income Maintenance Manual, Section 13.9
- D-2 Excerpts from West Virginia Income Maintenance Manual, Section 24.3
- D-3 Excerpts from West Virginia income Maintenance Manual, Section 24.3, C
- D-4 Excerpts from West Virginia Income Maintenance Manual, Section 13.10
- D-5 Assignment/Activity section of PRC for adult members dated April 23, 2012
- D-6 Copies of Participant Time Sheet for adult members for May 2012
- D-7 Orientation to WV WORKS form, signed by adult member March 7, 2011

VII. FINDINGS OF FACT:

- 1) The Claimant was receiving West Virginia (WV) WORKS cash assistance when on June 13, 2012, the Department determined that an adult member of her Assistance Group (AG), -----, did not meet the terms of his Personal Responsibility Contract (PRC) by failing to participate the required hours in work programs.
- 2) The parties agreed that the Claimant and her boyfriend, -----, previously signed a PRC (D-5) on or about April 23, 2012, in which they both agreed to report all life changes within ten (10) days, attend one-hundred-fifty (150) hours per month – seventy-five (75) each – in an educational class. The PRC (D-5) shows that the Claimant and ----- were informed that if they did not participate with all the assignments and activities agreed to, they would be penalized.
- 3) The Department presented evidence (D-6) in the form of May 2012 timesheets from the education class which shows that the Claimant attended class a total of 17.5 hours, and ----- attended the class a total of 17.5 hours, for a total of 35 hours during May 2012. The timesheets (D-6) show that on May 9, 2012, both the Claimant and ----- left class after 30 minutes and provided a medical excuse that covered from May 9, 2012, through May 11, 2012.
- 4) The Department representative, Ben Samms, is a Family Support Specialist employed with the ██████████ County Department of Health and Human Resources' office. He stated that the

Claimant and ----- came in for their “good cause” hearing during June 2012. He added that they claimed the day-care provider refused to allow their child to attend for several weeks in May 2012 because it was believed the child might have chicken pox. Mr. Samms stated that good cause was not found because the Claimant did not contact the Department to discuss the change in circumstances, and because the Department found that only one parent would be needed to stay at home with the child under those circumstances while the other parent could have attended the class. Mr. Samms stated that the Claimant and ----- also told him that they had not been to an “orientation” with the Department and therefore were not aware of what was expected of them. Mr. Samms presented a copy of an ORIENTATION TO WV WORKS form (D-7) signed by both the Claimant and ----- on March 7, 2011, which he stated shows that both the Claimant and ----- have attended an orientation. He added that the form is signed during the orientation process. Mr. Samms stated that the Department determined that the Claimant and ----- did not have good cause for failing to attend the education class as agreed.

- 5) The Claimant stated that the reason they did not attend was because they had a “flea problem” which caused the child and the Claimant to have sores on their bodies. The Claimant stated that she took the child to the doctor on or about May 9, 2012, and added that the child was placed on antibiotics at that time and not allowed to return to the day-care class during May 2012. She added that she contacted the Department during May 2012 to ask if the Department could provide assistance with getting the home sprayed, but did not inform the Department of the issue with attendance and day-care prior to her June 2012 good cause interview. She stated that she was not aware that she would be sanctioned for not attending the class as scheduled without first receiving prior permission from the Department to deviate from the agreed schedule.
- 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 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 the 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 the 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.

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

- 8) West Virginia Income Maintenance Manual, Section 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

VIII. CONCLUSIONS OF LAW:

- 1) The purpose of this hearing is to determine whether the Department correctly applied a 2nd level sanction against the Claimant which resulted in a 2/3 reduction in her WV WORKS cash assistance benefit for three months.
- 2) Applicable policy provides that an individual is obligated to negotiate and sign a PRC before becoming eligible for WV WORKS cash assistance. He or she 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.
- 3) The parties agreed that an up-to-date PRC agreement was entered into by the parties on April 23, 2012, at which time the Claimant and ----- agreed to participate in an educational class for a total of one-hundred-fifty (150) hours monthly. The parties agreed that the Claimant and ----- did not participate in the class the required hours during May 2012.
- 4) Policy provides that when individuals do not participate in their assigned activity for the minimum number of assigned hours, a good cause interview is to be conducted prior to the Department applying a sanction to the case. This good cause interview is completed to determine whether the participant has good cause for not meeting his or her assigned hours, and whether the issue can be resolved without applying a sanction to the case. This good cause interview was conducted per policy prior to the imposition of the 2/3 sanction.
- 5) The totality of the evidence supports that the Claimant and ----- do not have good cause for not attending the educational class the required hours during May 2012. The Claimant did not notify

the Department of the issue which she believed prevented her and ----- from attending the educational class as agreed; and, although this problem may have interfered with one individual attending class, it would not have prevented both adults from attending. Additionally, the Claimant's contention that she was not well informed about her responsibilities because she had not attended an orientation is not supported by the evidence. There is no good cause found.

- 6) As a result of all the above conclusions, the Department was correct in applying a 2nd level sanction to this case.

IX. DECISION:

After reviewing the information presented during the hearing, and the applicable policy and regulations, it is the ruling of the State Hearing Officer to **uphold** the Agency's decision to apply a 2/3 level sanction to your WV WORKS benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of July 2012.

**Cheryl Henson
State Hearing Officer**