



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P.O. Box 1736  
Romney, WV 26757

Earl Ray Tomblin  
Governor

Rocco S. Fucillo  
Cabinet Secretary

August 28, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 16, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your WV WORKS cash assistance by imposing a third-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. For a third offense, the sanction consists of ineligibility for assistance for a period of three months. (West Virginia Income Maintenance Manual Chapter 13.9)

The information which was submitted at your hearing revealed that you did not present good cause for your failure to comply with the requirements of your Personal Responsibility Contract.

It is the decision of the State Hearing Officer to uphold the action of the Department to impose a third level sanction against your WV WORKS cash assistance and terminate your benefits for three months.

Sincerely,

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

cc: Erika Young-Chairman, Board of Review  
Brittany Scarlett-Family Support Supervisor

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

**IN RE:** -----,

**Claimant,**

**v.**

**ACTION NO.: 12-BOR-1521**

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This hearing convened on August 16, 2012, on a timely appeal, filed June 12, 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  
Sarah Megargee, Department representative

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

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its action to terminate the Claimant's WV WORKS cash assistance by imposing a third-level sanction.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 13.9

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

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Notice of Appointment dated March 19, 2012
- D-3 Notice of Decision dated April 10, 2012
- D-4 Computer printout of case comments

**Claimant's Exhibits:**

- C-1 Student Academic Transcript-----

**VII. FINDINGS OF FACT:**

- 1) The Claimant is a participant of the WV WORKS cash assistance program (WV WORKS) and currently attends ----- (Exhibit C-1).
- 2) On March 19, 2012, James "Cory" Beahm, Family Support Specialist (FSS Beahm), issued the Claimant notice (Exhibit D-2) scheduling an office visit for March 26, 2012, at 1:30 P.M. at the ----- County Department of Health and Human Resources. Testimony indicated that the purpose of the scheduled appointment was for FSS Beahm to introduce himself as a new worker to the Claimant's case and become familiar with the Claimant's situation.
- 3) The Claimant failed to appear for the scheduled appointment and FSS Beahm proposed a third-level sanction against the Claimant's WV WORKS benefits.
- 4) On April 10, 2012, FSS Beahm issued the Claimant notice (Exhibit D-3) informing her of the third-level sanction and the termination of WV WORKS benefits, effective April 2012, for three months. This notice afforded the Claimant a good cause appointment for April 16, 2012, at 2:30 P.M., as an opportunity to present good cause for failing to keep her appointment.

- 5) FSS Beahm conducted a third sanction home visit with the Claimant on April 13, 2012. During the visit, FSS Beahm conducted the good cause hearing and determined that the Claimant did not have good cause and imposed the sanction.
- 6) The Claimant indicated that she has previously attended all scheduled meetings and appointments with the Department, but contended she did not receive notice (Exhibit D-2) of the March 2012, scheduled appointment. The Claimant indicated that the notice (Exhibit D-2) documented a purpose of the scheduled meeting was to reassess her employment and training needs. However, the Claimant did not understand the purpose of the meeting because she was previously enrolled with ----- (Exhibit C-1), had met all of her requirements, and previously updated her case with her previous Family Support Specialist. The Claimant acknowledged that she has been previously sanctioned and granted good cause on separate issues, but indicated when she informed FSS Beahm of her situation he denied her good cause request because of the previously awarded good cause of a prior sanction.
- 7) West Virginia Income Maintenance Manual § 1.25 documents, in pertinent part:

The Personal Responsibility Contract (PRC) is a contract between each of the adult or emancipated minor members of the WV WORKS AG, or non-recipient Work-Eligible Individual(s), and the Worker, as the representative of the Department. Completion and signature of the PRC form is required prior to approving the WV WORKS AG.

Failure, without good cause, to adhere to the responsibilities or any task listed on the PRC after signature, results in imposition of a sanction against the AG.

- 8) West Virginia Income Maintenance Manual §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.

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

- 9) West Virginia Income Maintenance Manual § 13.10 documents in pertinent part:

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 stipulates that when a member of the benefit group does not comply with the requirements found on his or her PRC, a sanction must be imposed unless the worker determines that good cause exists. A penalty for a third-level sanction results in a termination of WV WORKS cash assistance for a three-month period. Policy notes that the worker has considerable discretion when imposing the sanction.
- 2) Evidence presented in this case clearly demonstrates that the Claimant failed to adhere to the responsibilities of her PRC by failing to attend a scheduled appointment with the Department. While the Claimant contends she did not receive notice of the scheduled appointment, there was no evidence presented to ascertain that the Claimant did not receive the notice or that it was returned as undeliverable by the United States Postal Service. Therefore, the Claimant failed to attend a scheduled appointment and the decision to sanction and terminate WV WORKS benefits is affirmed.

**IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the decision of the Department to terminate WV WORKS cash assistance based on the imposition of a third sanction.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of August 2012.**

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