



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin
Governor

Board of Review
2699 Park Avenue, Suite 100
Huntington, West Virginia 25704

Rocco S. Fucillo
Cabinet Secretary

October 3, 2012

Dear Mr. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 13, 2012. Your hearing request was based on the Department of Health and Human Resources' termination of WV WORKS benefits 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 the WV WORKS program is based on current policy and regulations. Some of these regulations state that when a member of the WV WORKS assistance group (AG) does not comply with the requirements found on his Personal Responsibility Contract (PRC) or Self-Sufficiency Plan (SSP), a sanction must be imposed unless there is good cause, and that sanctions are applied in the form of termination of benefits for third or subsequent offenses. (West Virginia Income Maintenance Manual, Chapter 13.9)

The information submitted at your hearing revealed that you failed to comply with a PRC requirement, and did not establish good cause for non-compliance.

It is the decision of the State Hearing Officer to **uphold** the Department's termination of your WV WORKS benefits due to a sanction.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Doyle Ferguson, Department Representative

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

IN RE: ----,

Claimant,

v.

ACTION NO.: 12-BOR-1685

**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 October 3, 2012, 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 was convened on September 13, 2012, on a timely appeal filed July 6, 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
Doyle Ferguson, Department representative

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. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct to terminate the WV WORKS benefits of the Claimant.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 13.9

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Decision letter dated July 9, 2012

D-2 Case comments screen print

D-3 Personal Responsibility Contract (PRC)/Self-Sufficiency Plan (SSP) dated May 27, 2011

D-4 West Virginia Income Maintenance Manual, Chapter 13.9

VII. FINDINGS OF FACT:

- 1) Doyle Ferguson, a Family Support Specialist for the West Virginia Department of Health and Human Resources (Department), testified that the Department notified the Claimant (Exhibit D-1) on or about July 9, 2012, that his WV WORKS benefits would be terminated. This notice states, in pertinent part:

ACTION: Your WV WORKS/WVEAP benefits will stop. You will not receive this benefit after JULY 2012.

REASON: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC) and/or the Self Sufficiency Plan (SSP).

- 2) Mr. Ferguson testified that the Claimant was assigned an educational activity. The Claimant did not complete a time sheet for the month of June 2012, and completed no activity hours for that month. He testified that for these reasons a sanction was applied on the Claimant's case. He testified that a good cause appointment was scheduled for July 13, 2012 (Exhibit D-1), but that the Claimant did not attend this appointment and good cause was not granted.
- 3) The PRC and SSP (Exhibit D-3), signed by the Claimant on May 27, 2011, lists assignments or activities that include "Turn in time sheets by the 5th of every month," and "Maintain 85 [hours] a month."

- 4) Mr. Ferguson testified that the correct PRC and SSP (Exhibit D-3) document date is May 27, 2012. The Claimant testified that the correct document date is May 27, 2011, and that he did not remember the requirements on this document by the time this sanction was placed in July 2012.
- 5) The Claimant testified that he completed his spring classes at ---- College (----) in April 2012, and did not complete activity hours or turn in time sheets for either May 2012 or June 2012. He testified that he tentatively mentioned continuing classes in the summer, but had not committed to this and ultimately decided not to take summer classes. He opined that it was the responsibility of the Department worker to give him a work assignment for the summer months, and that he assumed he did not have an assignment because other college students do not attend over the summer months.
- 6) The West Virginia Income Maintenance Manual, at Chapter 13.9, states that “When a member of the AG or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC or SSP, a sanction must be imposed unless the Worker determines that good cause exists.”
- 7) The West Virginia Income Maintenance Manual, at Chapter 13.9.A, explains the implementation of sanctions, stating that “Sanctions are applied in the form of benefit reductions and, for the 3rd or subsequent offense, termination of benefits.”

VIII. CONCLUSIONS OF LAW:

- 1) Policy for the WV WORKS program requires an individual to comply with PRC or SSP requirements, and requires sanctions when non-compliance is without good cause. The Claimant did not attend an activity required by his PRC/SSP and did not submit a time sheet. The correct document date for the PRC/SSP is irrelevant because there is no dispute that the Claimant signed the PRC/SSP, and not recalling the PRC/SSP requirements is not good cause for non-compliance. The Claimant failed to comply with his PRC/SSP and did not have good cause for this non-compliance.
- 2) There was no dispute that the Claimant had previously received a sanction for a third-level offense, and sanctions for third or subsequent offenses requires a termination of WV WORKS benefits. The Department was correct to terminate the Claimant’s WV WORKS benefits due to a sanction for a third or subsequent instance of PRC non-compliance.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate the WV WORKS 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 October, 2012.

Todd Thornton
State Hearing Officer