



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

August 28, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 28, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your West Virginia (WV) WORKS cash assistance based on the imposition of a third (3rd) 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 third offense, the sanction consists of termination 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 third (3rd) 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 third (3rd) 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-1732

**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' (WV DHHR) Common Chapters Manual. This hearing convened on August 28, 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

Rich Radford, 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 third (3rd) 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
- D-4 Excerpts from West Virginia Income Maintenance Manual, Section 13.10
- D-5 Participant timesheet for June 2012
- D-6 Page four (4) of Personal Responsibility Contract dated December 2, 2011

VII. FINDINGS OF FACT:

- 1) The Claimant was receiving West Virginia (WV) WORKS cash assistance when on June 12, 2012, the Department determined that he did not meet the terms of his Personal Responsibility Contract (PRC).
- 2) The parties agreed that the Claimant previously signed a PRC (D-6) on or about December 2, 2011, in which Claimant agreed to attend General Equivalency Diploma (GED) class at [REDACTED] Career Center for one-hundred-fifty (150) hours per month.
- 3) The Department presented evidence (D-5) in the form of a June 2012 timesheet from the education class which shows that the Claimant attended class a total of 23.75 hours.
- 4) The Department representative, Rich Radford, is a Family Support Supervisor for the [REDACTED] WV DHHR office. He stated that a third (3rd) level sanction was applied because the Claimant did not participate 150 hours for the month of June 2012. He explained that although this was the Claimant's first offense, another member of his household had been sanctioned twice before, and that policy required the Department to consider this a (3rd) offense for the household. He stated that the class was not available to the Claimant for six (6) days during June 2012, but added that even with giving him credit for those days he did not meet his agreed upon attendance of 150 hours.

- 5) The Claimant stated that he does not disagree with the facts as presented by the Department, but added that he had a lot of things going on in his family during June 2012. He mentioned having to often leave class to take his children to medical appointments and that his usual practice was to provide the instructor with written medical excuses; however, no notations of this were made on the June 2012 timesheet by the instructor, and the Claimant provided no written evidence to this effect during the hearing. The Claimant could not say conclusively how many days in June 2012 he was off for this reason – but mentioned that it might have been two days.
- 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 3rd level sanction against the Claimant which resulted in a termination of his 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, at which time the Claimant agreed to participate in an educational class for a total of one-hundred-fifty (150) hours monthly. The parties agreed that the Claimant did not participate in the class the required hours during June 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 3rd level sanction.
- 5) The totality of the evidence supports that the Claimant did not have good cause for not attending the educational class the required 150 hours during June 2012. The Claimant was unable to show convincingly why he could not attend as scheduled; therefore, the Department was correct in applying a 3rd 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 3rd 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 28th Day of August 2012.

**Cheryl Henson
State Hearing Officer**