



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Earl Ray Tomblin  
Governor

Rocco S. Fucillo  
Cabinet Secretary

September 12, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 10, 2012. Your hearing request was based on the action of the Department of Health and Human Resources to terminate your WV WORKS benefits based on the application of 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 cash assistance for 3 months. (West Virginia Income Maintenance Manual § 13.9)

Information submitted at your hearing demonstrates that you failed to comply with the requirements of your Personal Responsibility Contract (PRC).

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to terminate your cash assistance based on the imposition of a third-level sanction in your WV WORKS case.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review  
Susan Drake, FSS, DHHR

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

-----,

**Claimant,**

v.

**Action Number: 12-BOR-1894**

**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 was convened on September 10, 2012, on a timely appeal filed July 2, 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  
Susan Drake, Family Support Specialist (FSS), WVDHHR

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department of Health and Human Resources was correct in its action to terminate the Claimant's WV WORKS cash assistance benefits based on the imposition of a third-level sanction.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapters 1.25, 13.9, 13.10 and 24.4

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

**Department's Exhibits:**

- D-1 Notice of Decision dated June 15, 2012
- D-2 WV WORKS Personal Responsibility Contract (PRC) – Part 1 of 2 – signed on 1/13/12
- D-3 West Virginia Income Maintenance Manual Chapter 13.9
- D-4 West Virginia Income Maintenance Manual Chapter 1.25
- D-5 West Virginia Income Maintenance Manual Chapter 24.4
- D-6 Correspondence from Claimant's physician - dated September 7, 2012

**VII. FINDINGS OF FACT:**

- 1) On or about June 15, 2012, the Claimant was notified via a Notice of Decision (Exhibit D-1) that the Department of Health and Human Resources (Department) was applying a third-level sanction to her WV WORKS benefits. This notice states, in pertinent part:

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

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).

This correspondence goes on to notify the Claimant that a good cause interview was scheduled on June 28, 2012, at 10 a.m. It should be noted that the Claimant was a no-show/no-call for this appointment.

- 2) The Department, represented by Susan Drake, a Family Support Specialist, testified that she received a phone call from the Claimant's physician, -----, M.D., Obstetrics & Gynecology, in June 2012 reporting concerns about the Claimant's poor attendance with scheduled visits. Information included in Exhibit D-6 indicates the Claimant was a high-risk pregnancy (child was born in July 2012) and attended her first prenatal visits in December 2011. ----- notes in his correspondence that during the course of her pregnancy, the Claimant missed nine (9) appointments and was rarely seen the last two (2) months. ----- goes on to indicate that the Claimant "signed out against medical advice" approximately six (6) times during visits to labor and delivery at ----- Memorial Hospital.

- 3) The Department submitted Exhibit D-2, WV WORKS Personal Responsibility Contract (PRC) signed by the Claimant on January 13, 2012, and noted that the seventh (7<sup>th</sup>) bullet requires the Claimant to develop and keep scheduled health care visits for her child/children with an appropriate healthcare provider. The Department contends that because the Claimant was failing to keep scheduled medical appointments during a high-risk pregnancy, the sanction was imposed effective July 1, 2012. The Department further noted that the Claimant failed to attend her scheduled good cause appointment on June 28, 2012, and that she did not contact --- until she realized that her WV WORKS cash assistance benefits had not been deposited into her account.
- 4) The Claimant provided testimony to indicate that she was aware she had missed one appointment with her physician, but indicated it was due to her child being ill. This information, however, fails to explain why eight (8) other documented visits were not kept, or why she signed out of a medical treatment facility against medical advice on several occasions.
- 5) 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 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.
- 6) West Virginia Income Maintenance Manual, Chapter 13.9:  
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.  
Once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.
- 7) The West Virginia Income Maintenance Manual, Chapter 13.10, sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract. This policy goes on to state that 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.

## **VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that when a member of the benefit group does not comply with the requirements found on his/her PRC, a sanction must be imposed unless the worker determines that good cause exists. A third-level sanction results in closure/termination of cash assistance for three months. While there are specific circumstances noted in policy for which good cause can be granted, policy goes on to state that 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. Policy goes on to note once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.

- 2) The evidence submitted (Part 1 of the PRC) clearly states that the Claimant is required to develop and keep scheduled healthcare visits with an appropriate healthcare provider. While the Claimant provided an excuse for missing one medical appointment, policy stipulates that she must demonstrate that she is attempting to comply with the requirements of her PRC to the best of her ability. The facts of this case clearly demonstrate that the Claimant was not trying to comply with the requirements of her PRC or acting in the best interest of her unborn child.
- 3) The Department's decision to impose a third-level sanction in the Claimant's WV WORKS case is, therefore, affirmed.

**IX. DECISION:**

After reviewing the information presented during the hearing, and the applicable policy and regulations, it is the decision of the State Hearing Officer to **uphold** the Department's decision to terminate the Claimant's WV WORKS benefits based on the imposition of a third-level sanction.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of September 2012.**

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**Thomas E. Arnett  
State Hearing Officer**