



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

September 24, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 20, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your WV WORKS cash assistance by imposing a second-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 second offense, the sanction consists of a two-thirds reduction in cash assistance for a period of three months. (West Virginia Income Maintenance Manual Chapter 13.9)

The information 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 second-level sanction against your WV WORKS cash assistance and reduce 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-1952**

**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 September 20, 2012, on a timely appeal, filed August 9, 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  
Tammy Crockett, Family Support Specialist

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 decision to sanction and reduce the Claimant's WV WORKS cash assistance.

**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 Computer printout of case comments for July 2012 through August 2012

**Claimants' Exhibits:**

- C-1 Written prescription from [REDACTED] Surgeons
- C-2 Oral Surgery Instructions from [REDACTED] Surgeons

**VII. FINDINGS OF FACT:**

- 1) The Claimant is a recipient and participant with the Department's WV WORKS cash assistance program (WV WORKS).
- 2) On July 2, 2012, the Claimant completed an office visit with her Family Support Specialist (FSS) in order to be placed in a community service activity, a requirement of participation with WV WORKS.
- 3) On July 9, 2012, the Claimant informed her FSS that she would begin her community service activity with Habitat for Humanity (HABITAT). During this office visit, the FSS confirmed with HABITAT that the Claimant would receive 30 hours of community service per week.
- 4) On July 10, 2012, the Claimant submitted the necessary paperwork for her community service activity to the FSS indicating that she would begin her community service activity on July 16, 2012.
- 5) On July 25, 2012, the FSS became aware that the Claimant failed to begin her community service activity and imposed a second-level sanction against the Claimant's WV WORKS benefits. A good cause hearing for the sanction was scheduled for August 7, 2012, in which the Claimant failed to appear.

6) The Claimant stated HABITAT is closed on Monday and Tuesday and she was only scheduled to receive 20 hours of work per week. The Claimant purported that due to her stature, she is unable to drive and was unable to obtain transportation the week she was to begin her activity. Additionally, the Claimant testified that she had a tooth abstracted the week she was to begin her community service activity and provided a written prescription for Tylenol (Exhibit C-1) from [REDACTED] Surgeons for July 20, 2012. The Claimant indicated that she informed her worker of her situation on the following Monday (July 23, 2012). The Claimant acknowledged that she failed to appear for her good cause appointment concerning the sanction on August 7, 2012, but met with her worker on August 9, 2012 (Exhibit D-2).

7) 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.

8) 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.

9) 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.

**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 second-level sanction results in a two-thirds reduction of WV WORKS cash assistance for a three-month period. Policy notes that the worker has considerable discretion when imposing the sanction.
- 2) Evidence is clear that the Claimant failed to begin her community service activity with Habit for Humanity the week of July 16, 2012. Policy requires that the Department is obligated to provide the Claimant an opportunity to present good cause for her failure to adhere to the responsibilities of her PRC. The facts of this case reveal that the Claimant failed to appear at the established good cause appointment and failed to provide a reasonable explanation for her absence from the required participation activity in the appropriate timeframe. Therefore, the Department's decision to impose a second sanction is warranted.

**IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the decision of the Department to reduce the Claimant's WV WORKS cash assistance based on the imposition of a second-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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**Eric L. Phillips**  
**State Hearing Officer**