



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General

Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

October 4, 2012

Dear Ms.-----:

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' imposition of a third-level sanction against your WV WORKS benefits.

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. These regulations state that that failure, without good cause, to adhere to the requirements found on the Personal Responsibility Contract will result in the imposition of a sanction. For the first offense, the benefit amount is reduce by one-third, for the second offense by two-thirds and for third and subsequent sanctions the benefit amount is terminated (WV Income Maintenance Manual § 13.9 A).

The information submitted at your hearing failed to establish good cause for your failure to participate in the requirements as found on the Personal Responsibility Contract.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to impose a third-level WV WORKS sanction.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Melissa Fox, Family Support Specialist

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-2005

**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 held on September 20, 2012. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 700. This fair hearing was convened on a timely appeal, filed August 7, 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

-----, Witness for Claimant

Melissa Fox, Family Support Specialist

Presiding at the Hearing was Kristi Logan, 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's imposition of a third-level WV WORKS sanction was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 13.9, 13.10 and 24.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Personal Responsibility Contract dated June 19, 2012
- D-2 Notification Letter dated July 3, 2012
- D-3 WV Income Maintenance Manual § 13.9
- D-4 Case Comments (CMCC) from RAPIDS Computer System
- D-5 Individual Comments from eRAPIDS Computer System
- D-6 WV WORKS Sanction History
- D-7 Department's Summary
- D-8 WV WORKS Volunteer Job Description Form

VII. FINDINGS OF FACT:

- 1) Claimant was a recipient of WV WORKS benefits and had been exempt from participation in work activity due to having a child under age one (1). Claimant's caseworker, Melissa Fox conducted a home visit on June 19, 2012, with Claimant. Claimant's exemption period ended June 30, 2012, and a new Personal Responsibility Contract (D-1) was completed during the home visit.
- 2) Melissa Fox, Family Support Specialist, testified Claimant was required to participate in a work activity once her exemption ended in June 2012. Claimant was to return to college in the fall, but needed an activity for July and August 2012. Ms. Fox stated she discussed Claimant attending SPOKES classes or community service for her activity, and Claimant chose community service. Ms. Fox stated she gave Claimant the community service contract (D-8) to be completed and returned by June 29, 2012. Ms. Fox stated Claimant was to begin her community service on July 2, 2012 (D-1).
- 3) Ms. Fox testified Claimant did not return the community service contract and a third level sanction was imposed against her WV WORKS benefits on July 3, 2012. The Department issued a notification letter (D-2) on July 3, 2012, advising Claimant of the sanction and a good cause appointment scheduled for July 16, 2012. Ms. Fox stated

Claimant did not appear for the good cause appointment and her benefits were terminated effective August 2012.

- 4) Ms. Fox stated Claimant completed a review on August 3, 2012, at which time Claimant advised Ms. Fox that she never received the good cause letter. Ms. Fox stated Claimant's mail had been postal returned to the local office in June 2012, but her address was updated after the home visit and Ms. Fox denied receiving returned mail after that time.
- 5) Claimant testified that she did not know that it was her responsibility to find a community service activity in which to participate in, and did not know she had to return the contract by June 29, 2012. Claimant stated she has never been in a community service activity before, and had always been assigned a work activity by a caseworker. Claimant stated she contacted her church to volunteer, but it is open only two (2) days a week, which was not enough to fulfill her required hours. Since she would not receive enough hours volunteering at her church, Claimant assumed her worker would contact her with an assignment.

Claimant stated she was having problems receiving her mail at her home address, and had it changed to a friend's address. She completed two (2) change of address forms with the post office and has filed a complaint over not receiving her mail at her friend's address. Claimant stated she would receive some mail from the Department, but not all, and did not receive the good cause appointment letter.

Claimant admitted that she was distracted during the June 19, 2012, home visit with Ms. Fox as she has four (4) children. Claimant stated Ms. Fox gave her some paperwork, but she put it aside and did not read it.

Claimant stated she had Ms. Fox provide her with a copy of the good cause appointment letter (D-2) and argued that the letter stated she would be sanctioned for three (3) months, or until compliance. She returned to college in mid August 2012, and now that she is complying with participating in a work activity, the sanction should be removed.

- 6) Pertinent parts of the Personal Responsibility Contract signed June 19, 2012, (D-1) states:

Assignment/Activity – Begin Date/Due Date

Volunteer – 20 hrs. per week & provide monthly time sheets – 6/19/12 & ongoing

Provide completed volunteer form – 6/29/12

- 7) Pertinent parts of the WV WORKS Volunteer Job Description (D-8) states:

This template should be used by the local office to determine the job description for a self-initiated Community Service volunteer placement found by the client.

8) WV Income Maintenance Manual § 13.9 A states:

When a member of the AG [assistance group] or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC [personal responsibility contract] or SSP [self-sufficiency plan], a sanction must be imposed unless the Worker determines that good cause exists.

Once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.

Sanctions are applied in the form of benefit reductions and, for the 3rd or subsequent offense, termination of benefits. The amount of the benefit reduction is a fixed amount and is determined as follows:

1st offense: 1/3 reduction in benefit amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months

2nd offense: 2/3 reduction in benefit amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months.

3rd and all subsequent offenses: Ineligibility for cash assistance for 3 months

9) WV Income Maintenance Manual § 13.10 states 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 SSP 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.

10) WV Income Maintenance Manual § 24.10 states:

Community Service participation is a self-initiated volunteer activity on the part of WV WORKS clients. Client selection of a volunteer position with a community agency is acceptable if the agency and position meet the definition of Community Service under the first paragraph of this section. The Worker may provide clients with a known list of local

appropriate Community Service sites. However, the Worker must not direct or “place” clients at any particular volunteer site.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that when an individual fails to comply with the requirements of the Personal Responsibility Contract, a sanction is imposed unless good cause exists. Once a sanction is imposed, it cannot be stopped until the appropriate time has elapsed.
- 2) Claimant was required to find a community service activity and return the completed volunteer form by June 29, 2012. Claimant failed to meet this requirement as agreed upon in the Personal Responsibility Contract. Although Claimant contended she did not receive the good cause letter, her requirements regarding community service was documented on the Personal Responsibility Contract. Claimant did not have good cause for her failure to adhere to her contract with the Department.
- 3) The Department correctly imposed a third level WV WORKS sanction against Claimant effective August 2012.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department’s imposition of a third level WV WORKS sanction against Claimant’s benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 4th day of October 2012

Kristi Logan
State Hearing Officer