



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

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

February 27, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held February 24, 2012. Your hearing request was based on the proposal of the Department of Health and Human Resources to terminate your WV WORKS cash assistance 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
Kristin Ward, FSS, DHHR

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

-----,

Claimant,

v.

Action Number: 12-BOR-417

**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 telephonic hearing was convened on February 24, 2012 on a timely appeal filed January 5, 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
Kristin Ward, 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. The notice also indicated that SNAP benefits would be reduced, but because the Department was unaware that there was a proposed reduction and subsequent SNAP appeal, the Claimant's SNAP appeal (12-BOR-416) was held in abeyance pending a determination by the Department if there was a proposed reduction in SNAP benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.25, 13.9, 13.10,

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHHR-1 Case Summary
- DHHR-2 WV WORKS Personal Responsibility Contract (PRC) – Part 1 of 2 (signed November 22, 2011
- DHHR-3 WV WORKS Personal Responsibility Contract (PRC) – Part 2 of 2 (signed December 8, 2011
- DHHR-4 Notice of Decision (PRC Sanction Letter) – January 4, 2012
- DHHR-5 Pre-Hearing Conference Scheduling Notice – January 17, 2012
- DHHR-6 Weekly attendance reports for December 12, 2011 to December 30, 2011
- DHHR-7 West Virginia Income Maintenance Manual Chapter 13.9

VII. FINDINGS OF FACT:

- 1) On or about January 4, 2012, the Claimant was notified via a Notice of Decision (DHHR-4) that the Department of Health and Human Resources, hereinafter Department, was applying a third-level sanction to her WV WORKS benefits. This notice states, in pertinent part:

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

This correspondence goes on to notify the Claimant that a good cause interview was scheduled on January 13, 2012 at 9 a.m.

- 2) The Department, represented by Kristin Ward, a Family Support Specialist, presented evidence to indicate that the Claimant reapplied for WV WORKS cash assistance benefits on December 8, 2011 and signed her PRC, agreeing to attend EXCEL eight-five (85) hours per month beginning on December 12, 2011. The Claimant was required to attend her activity for five (5) consecutive days to get her cash assistance reinstated due to a prior sanction, but once cash assistance was approved, attendance virtually stopped. The Department submitted Exhibit DHHR-6 to show that during the period of December 12, 2011 through December 30, 2011, the Claimant attended her activity three (3) times for a total of 12 hours and 41 minutes.
- 3) The Department noted that the Claimant failed to appear for the good cause appointment scheduled on January 13, 2012 (DHHR-4), or provide a physician's statement to verify illness, and she failed to appear for a pre-hearing conference scheduled on January 24, 2012 (DHHR-5). While the Claimant testified that she must have overlooked the scheduled good cause appointment in the notice letter, FSS Ward testified that she also confirmed the scheduled good cause appointment during a home visit with the Claimant on January 6, 2012.
- 4) The Claimant testified that she did not know why she was sick and unable to get out of bed, but has since found out that she is pregnant. She further testified that she has applied for disability benefits.
- 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.
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.
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 in this case clearly demonstrates that the Claimant failed to comply with the provisions of her PRC and she did not attempt to establish good cause. While the Claimant purported that she has a medical disability and she is now pregnant, there was no documented attempt by the Claimant to comply with the requirements of her PRC.
- 3) The Department's decision to impose a third-level sanction in the Claimant's WV WORKS case is, therefore, affirmed.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal 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 February 2012.

Thomas E. Arnett
State Hearing Officer