



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

Board of Review  
P.O. Box 1736  
Romney, WV 26757

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

Earl Ray Tomblin  
Governor

April 11, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held April 4, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your WV WORKS cash assistance by implementing 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 an ineligibility of assistance for a period of three months. (West Virginia Income Maintenance Manual Chapter 13.9)

The information which was 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 implement a third level sanction against your WV WORKS cash assistance and terminate your benefits for three months.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young-Chairman, Board of Review  
Megan Garland-Family Support Specialist

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

**IN RE:** ---- ----,

**Claimant,**

**v.**

**ACTION NO.: 12-BOR-717**

**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 fair hearing was convened on a timely appeal, filed February 23, 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  
Megan Garland, 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 action to terminate the Claimant’s WV WORKS cash assistance by implementing a third level sanction.

**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 Self-Sufficiency Plan dated January 17, 2012
- D-3 Computer printout of case comments dated February 23, 2012

**VII. FINDINGS OF FACT:**

- 1) On January 17, 2012, the Claimant completed a reapplication for WV WORKS cash assistance and updated the Self-Sufficiency Plan (Exhibit D-2), an eligibility requirement of the program.
- 2) Ms. Megan Garland, Family Support Specialist, testified that the Self-Sufficiency Plan (Exhibit D-2) was completed by the Claimant and her worker on January 17, 2012. The Claimant signed the Self-Sufficiency Plan and agreed to the following goals and assignments of the WV WORKS program:

Goals	Target Date
Employment	2/17/2012
To get an associate’s degree	3/8/2015
Assignments	Begin Date/Due Date
Report Changes in 10 days	1/17/2012-N/A
Keep all meetings and appointments [sic]	1/17/2012-N/A
Community Service w/ [redacted] [sic] Co Sheriff’s Dep	1/23/2012-N/A
Set up child care w/ [redacted] [sic]	1/17/2012-N/A
Complete 20 Hrs wk/ 85 hrs month	1/17/2012-1/17/2012
Time Sheets Due by 5 <sup>th</sup> of EA [sic] Month	2/5/12-2/5/12
Cooperatw [sic] with child support	1/17/2012-N/A

- 3) Ms. Garland indicated that a subsequent third sanction was placed against the Claimant’s WV WORKS cash assistance benefits for failing to submit the required Participant Time Sheet. Ms.

Garland stated that the Claimant had not submitted the necessary time sheet by February 8, 2012 and the sanction was imposed on the same date. Ms. Garland stated that notice of the adverse action was issued to the Claimant on February 9, 2012 and a good cause appointment for the sanction was scheduled for February 21, 2012 at 9:00 A.M., in which the Claimant failed to appear.

- 4) On February 23, 2012, the Claimant completed a recertification for benefits and informed the Department that she did not receive the notice of adverse action. Exhibit D-3, Printout of case comments documents the workers interactions with the Claimant on that date as:

---- in office for missed review day. She also found out that she had a good cause appt on Tues 2/21/12 that she failed to appear for. Claimed that she did not get her letter but checked letter history and printed out the PRC sanction letter and showed to her. Then she confessed that the letter in her hand was that letter though she at first had claimed that it was a notification of closure for missed review letter. Explained to ---- that I cannot lift a sanction when she fails to show up for the good cause appt and does not call to attempt to reschedule. -- -- claims that she could not make it to her WV WORKS activity because her car was not working and she had no transportation.

- 5) The Claimant testified that she was a previous recipient of WV WORKS cash assistance in December, 2011 and closed her assistance due to her employment. The Claimant indicated that she “lost” this employment due to transportation issues and that her previous worker was aware that her vehicle had “blown up.” The Claimant indicated that she reapplied for WV WORKS cash assistance in January, 2012 and met with Melissa Blizzard, Family Support Specialist to complete her reapplication for the program. The Claimant testified that she informed Ms. Blizzard of her transportation problems and requested to begin her community service activity the first week of February, because her parents were in the process of purchasing her a vehicle. The Claimant stated that Ms. Blizzard agreed to her request and required her to attend an orientation with the ██████████ County Sherriff’s Department on January 23, 2012. The Claimant stated that Ms. Blizzard informed her she would not enter information concerning her February start date into the computer system for fear of adverse consequences. The Claimant indicated that she attended the orientation and was not aware of any problems until she completed her recertification on February 23, 2012. The Claimant testified that during the recertification Ms. Blizzard denied allowing her the opportunity to begin her participation activity in February, 2012.

- 6) 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.

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 states in pertinent part:

All mandatory Work-Eligible Individuals must be placed into a relevant and a current component for tracking and monitoring purposes on approval date. The participant must remain in that component whether or not they are working, cooperating, or sanctioned until either the case is closed or the Case Manager and participant agree to change the component. Not meeting participation requirements or being sanctioned are not reasons to disenroll the participant from their assigned component(s). Some reasons for granting good cause for temporarily not meeting participation requirements are life events or problems such as, but not limited to:

- The death of a spouse, parent, child, or stepchild.

- In accordance with the Family and Medical Leave Act (FMLA) of 1993, an acute, life threatening illness of a spouse, parent, or child that requires the client's immediate attention. This does not include individuals who are exempt from participation due to caring for a disabled family member as outlined in section 13.8.

- The minimum suitability standards for the specific activity are not met. See Sections 24.5 – 24.13 for minimum requirements. If none are listed for the activity, the Worker must determine if the activity placed unreasonable requirements on the client. Individuals granted good cause for this reason must be scheduled an appointment or home visit to review the situation and possible PRC update.

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.

- The parent, an included non-parent caretaker, or a non-recipient Work-Eligible Individual quits employment or fails to participate in his assigned activity due to enrollment and full-time attendance in school, training, or an institution of higher learning. The PRC must be updated and these individuals should be placed in the VT, AB, or CL components as soon as possible.

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Failure or refusal to comply, without good cause, results in imposition of a sanction. When the Worker discovers the failure or refusal, a notice of adverse action must be issued. When a letter is mailed scheduling the good cause interview, the Worker must allow no less than 7 calendar days. This period begins the day following the date the letter is requested in RAPIDS, or the day following the date a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the client. If the appointment is scheduled for a date prior to the 7 calendar days, the participant and the Worker must agree on the appointment date. See Section 6.3, Items D and E, A Worker generated letter from RAPIDS or a manual letter, DFA-WVW-NL-1 is used.

When the Worker determines that the client has good cause for failure to participate for one of the reasons listed in items A through E below, the participant must be placed in the appropriate good cause component.

Clients in any of these components are still considered in the federal participation rate calculation.

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#### OTHER GOOD CAUSE REASONS (NA)

The following are circumstances that may be experienced by individuals who are not temporarily exempt and not currently in an activity, or who are not meeting the minimum participation hours while in an activity, but have good cause for failing to participate:

- The 12-week postpartum period following the birth of any additional child after having used the 12 month lifetime Age of Child (TF) period. Anytime other than the usual 12-week period requires medical documentation of the expected return to work date.

- The 12-week period following the placement of a child with the individual for adoption or foster care.

A verified activity will start within 30 days and there is no other activity available in the interim

- The individual is required to appear in court or for jury duty.

- A requirement of the Division of Children and Adult Services precludes participation for a specified period of time.

- The individual refuses to accept surgery which would eliminate or significantly improve his condition, even if the refusal precludes participation.

- The individual would be required to travel more than 1 hour round trip to participate, unless it can be shown that local community travel standards exceed the 1 hour limitation.

- There is no transportation currently available to the client and all possible sources of transportation have been explored. He must accept appropriate available transportation in the community.

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

- 1) Policy stipulates that 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. A penalty for a third-level sanction results in a termination of WV WORKS cash assistance for a three month period. Policy lists specific circumstances in which the recipient may be granted good cause for the infraction and the worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his or her ability, understands the requirements, and the sanction process. Policy notes that the worker has considerable discretion when imposing the sanction. Additionally, policy allows for good cause for the individual's inability to participate in an activity when there is no transportation currently available to the individual and all possible sources of transportation have been explored.
- 2) As a recipient of WV WORKS cash assistance, the Claimant was required to participate in a community service activity and provide verification of her monthly participation hours to the Family Support Specialist. While the Claimant maintains she informed her Family Support Specialist of transportation issues, she signed a PRC on January 17, 2012 agreeing to

participate with her community service activity on January 23, 2012 and to provide documentation of the participation on the fifth day of the following month. Furthermore, the Claimant failed to appear at an established good cause hearing to present concerns involving transportation issues on February 21, 2012. Whereas, the Claimant agreed to participate with her community service participation effective January 23, 2012 and failed to produce verification of participation hours in a timely manner, the Department was correct in its decision to implement a third-level sanction.

**IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the action of the Department to implement a third-level sanction against the Claimant's WV WORKS cash assistance.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of April, 2012.**

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**Eric L. Phillips**  
**State Hearing Officer**