



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

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

May 30, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 10, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to impose a third sanction against your WV WORKS benefits for failing to comply with your Personal Responsibility Contract (PRC) by failing to cooperate with the WV Bureau for Child Support Enforcement (BCSE.)

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 provide that when a member of the assistance group or non-recipient Work-Eligible Individual does not comply with requirements found on his Personal Responsibility Contract (PRC), a sanction must be imposed unless the Worker determines that good cause exists. (West Virginia Income Maintenance Manual §13.9)

The information submitted at this hearing revealed that in February 2012, a third sanction was imposed on your WV WORKS benefit because you did not comply with the requirements of your PRC by cooperating the Bureau of Child Support Enforcement (BCSE) in obtaining child support benefits for your children.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose a third sanction on your WV WORKS benefits based on your failure to perform an activity listed on your PRC, to cooperate with the BCSE in establishing child support benefits.

Sincerely,

Stephen M. Baisden
State Hearings Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Charlie Dotson, WV DHHR, [REDACTED] County Office

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

-----,

Claimant,

v.

ACTION NO.: 12-BOR-784

**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 concluded on May 30, 2012, 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 Fair Hearing was convened at the [REDACTED] County office of the WV DHHR in [REDACTED] WV, on May 10, 2012, on a timely appeal filed March 1, 2012. This hearing was originally scheduled for April 24, 2012, but was rescheduled at Claimant's request.

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

Charlie Dotson, Family Support Specialist, Department's Representative

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and member of the Board of Review.

Both participants were placed under oath at the beginning of the hearing.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its proposal to impose a third sanction against Claimant's WV WORKS benefit.

V. APPLICABLE POLICY:

WV Income Maintenance Manual §1.25, §13.9 and §13.9.A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 DFA-WVW-4, WV WORKS Orientation form, signed on July 18, 2011
- D-3 DFA-PRC-1, WV WORKS Personal Responsibility Contract (PRC) Part 1, signed and dated by Claimant and Family Support Specialist on July 18, 2011
- D-4 DFA-PRC-1, PRC Part 2, signed and dated by Claimant and Family Support Specialist on July 18, 2011
- D-5 Updated DFA-PRC-1, PRC Part 2, signed and dated by Claimant and Family Support Specialist on July 29, 2011
- D-6 DFA-AP-1, Acknowledgement of Automatic Assignment of Support Rights and of Cooperation Requirements form, signed and dated by Claimant and Family Support Specialist on December 8, 2011
- D-7 DHS-1, Interoffice Communication Memo from Bureau of Child Support (BCSE) Legal Assistant to WV WORKS Family Support Specialist dated January 10, 2012, and reply from WV WORKS Family Support Specialist dated January 13, 2012
- D-8 Letter from Department to Claimant dated January 17, 2012
- D-9 DHS-1, Interoffice Communication Memo from BCSE Legal Assistant to WV WORKS Family Support Specialist dated February 7, 2012
- D-10 Physician's Certification of Illness dated January 22, 2012
- D-11 Physician's Certification of Illness dated February 29, 2012
- D-12 IG-BR-29, Hearing Request Notification dated March 1, 2012
- D-13 Letter to Claimant confirming receipt of hearing request
- D-14 Hearing scheduling order dated March 20, 2012
- D-15 Income Maintenance Manual, Chapter 13, Section 12
- D-16 Income Maintenance Manual, Chapter 13, Section 9 and 9.A
- D-17 Income Maintenance Manual, Chapter 1, Section 25.T
- D-18 E-mail from BCSE Legal Assistant to WV WORKS Family Support Specialist dated April 18, 2012

VII. FINDINGS OF FACT:

- 1) In December, 2011, the WV WORKS unit of the WV DHHR for ██████ County, WV imposed a third sanction on Claimant's WV WORKS benefit due to her alleged failure to perform the activities listed on her Personal Responsibility Contract (PRC). (Exhibit D-4 and Exhibit D-5.) Claimant requested a Fair Hearing on March 1, 2012 (Exhibit D-12), in order to protest the imposition of this sanction on her WV WORKS benefit.
- 2) On July 18, 2011, Claimant attended a WV WORKS group orientation meeting. At this meeting, she signed and dated a form DFA-WVW-4, Orientation to WV WORKS. (Exhibit D-2.) This document reads in part:

Personal Responsibility Contract

All Work-Eligible adults and emancipated minors are required to negotiate a PRC. This is a plan to help you become employed and financially independent. Your Worker will explain the types of activities you can perform to meet your work requirement. You will be given a list of the types and locations of activities in your area and you must work with your Worker to develop a PRC and identify barriers that must be addressed . . . Your signature means that you agree to abide by the terms of your contract; your Worker's signature means that DHHR agrees to assist you toward your goal.

Sanctions

If you do not abide by the terms of your PRC, you will receive a letter for a Good Cause appointment with your Worker. This meeting will give you an opportunity to explain why you did not meet the terms of your contract. If you do not keep this appointment or do not show that you had good cause for failing to meet your work requirements, your benefit amount will be reduced or stopped. Your Food Stamp [SNAP] benefits will not be increased during these periods and your household will not be eligible for Emergency Assistance while your WV WORKS benefit is in a sanction period. The sanctions are:

First sanction – Your benefit is reduced by one-third (1/3) for three months.

Second sanction – Your benefit is reduced by two-thirds (2/3) for three months.

Third sanction – Your benefit is stopped for three months.

Each sanction after the third – Your benefit is stopped for three months.

- 3) Also on July 18, 2012, Claimant completed her WV WORKS application, wherein she signed and dated a Personal Responsibility Contract (PRC). Part 1 of the PRC (Exhibit D-3) is a list of WV WORKS participant responsibilities. This document reads in part:

I understand that I am required to attend any meetings or appointments related to my eligibility for cash assistance and my self-sufficiency goals. These meetings or appointments include, but are not limited to, home visits, periodic review of my eligibility for benefits, assessment of my skills and progress in meeting my goals and becoming self-sufficient, employment interviews scheduled by or for me, etc., or I may be sanctioned.

I will help to collect child support for my child(ren). Unless good cause exists, this means helping to find the parent(s) of my child(ren) if the parent(s) does not live with me and my child(ren), helping to determine who my child(ren)'s father is, if it has not yet been determined, and helping to enforce court orders for my child(ren)'s support.

I understand that I must comply with the Rights and Responsibilities section of my application for assistance and follow my PRC or a penalty may be applied. Penalties include case closure, repayment or legal action, removal from the payment, or sanctions as follows:

First sanction – A one-third (1/3) cut in my family's WV WORKS benefit for three (3) months for my first penalty;

Second sanction – A two-thirds (2/3) cut in my family's WV WORKS benefit for three (3) months for my second penalty;

Third and all subsequent sanctions – My family's WV WORKS benefit will stop for at least three (3) months if I have a third penalty.

- 4) Part 2 of the PRC is known as the "Self-Sufficiency Plan" and contains activities agreed upon by the WV WORKS recipient and his/her worker, along with time limits or due dates for the activities. One of the activities Claimant agreed to undertake as a WV WORKS recipient was for her to "Cooperate with BCSE [Bureau for Child Support Enforcement]/Child Support," with an effective date of July 18, 2011, the date of the WV WORKS application. Claimant and her worker signed and dated the Self-Sufficiency Plan on July 18, 2011. (Exhibit D-4.) On July 29, 2011, Claimant returned to the DHHR to update her PRC. She signed an updated Self-Sufficiency Plan, again agreeing to cooperate with the BCSE. (Exhibit D-5.)
- 5) Department's representative submitted as evidence a memo from a BCSE Legal Assistant dated January 10, 2012. (Exhibit D-7.) The memo reads: "Please sanction [Claimant] as she failed to keep two appointments with BCSE." A WV WORKS Family Support Specialist responded to the memo on January 13 that she had taken the requested action. A

subsequent e-mail was sent from a worker in BCSE to the Department's Representative on April 18, 2012, explaining that Claimant failed to keep two appointments with the BCSE, on December 8, 2011, and December 29, 2011. (Exhibit D-18.)

- 6) Department's Representative stated that on January 17, 2012, Claimant's Family Support Specialist sent a letter to Claimant informing her that a third sanction would be applied to her WV WORKS benefits effective February 1, 2012. (Exhibit D-8.) The letter explained that the worker had scheduled a good cause appointment for Claimant on January 24, 2012, to give her an opportunity to explain why she did not cooperate with the BCSE. Department's evidence does not indicate Claimant attended the good cause appointment.
- 7) Department's Representative stated that on February 7, 2012, the WV WORKS unit received another memo from the BCSE indicating Claimant came into the ██████ County DHHR office, met with a BCSE worker, and cooperated with BCSE in attempting to secure child support for her children. (Exhibit D-9.) Department's representative added that since Claimant had not attended the good cause appointment, the sanction had been imposed effective February 1 and by policy could not be lifted.
- 8) Claimant testified she did not receive letters from the BCSE informing her that she had appointments for the dates of December 8, 2011, or December 29, 2011. She stated that in January 2012, she called to reschedule her BCSE appointments, and BCSE scheduled her to come into the DHHR office on January 23, 2012. She stated that she was hospitalized for emergency surgery on January 22 and had physicians' excuses to verify this. (Exhibits D-10 and D-11.) She stated that she returned to the DHHR and met with BCSE workers on February 7, 2012.
- 9) Income Maintenance Manual Chapter 13.9 (Exhibit D-16) states as follows:

When a member of the AG or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC or SSP, a sanction must be imposed unless the Worker determines that good cause exists.

A. DEFINITION OF SANCTION

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

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that a WV WORKS cash assistance recipient must sign a Personal Responsibility Contract and must participate in the activities listed on the Self-Sufficiency Plan portion of the Contract. Policy further dictates that a sanction, or penalty, is imposed upon a WV WORKS assistance group for failure to perform these activities unless the recipient can establish good cause for non-cooperation.

- 2) Department's Representative submitted evidence to indicate Claimant agreed to cooperate with the Bureau of Child Support Enforcement (BCSE) as part of a WV WORKS application completed on July 18, 2012.
- 3) Department's Representative submitted evidence to indicate Claimant did not cooperate with BCSE by coming into the [REDACTED] County DHHR office and meeting with BCSE workers for two appointments, scheduled for December 8, 2011, and December 29, 2011.
- 4) Department's Representative testified that Claimant did not attend a good cause appointment on January 24, 2012, in order to explain why she did not cooperate with the BCSE. Therefore a third sanction was imposed effective February 1, 2012.
- 5) Department's Representative submitted evidence to indicate Claimant cooperated with the BCSE on February 7, 2012. However, policy is clear that once a WV WORKS penalty is imposed, it cannot be lifted.
- 6) Because Claimant did not come to the Mingo County office of the WV DHHR to cooperate with the BCSE by attempting to obtain child support, the Department acted correctly to impose a third sanction against Claimant's WV WORKS benefit.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose a third sanction against Claimant's WV WORKS benefit.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th day of May 2012.

Stephen M. Baisden
State Hearing Officer