



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 22, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 16, 2007. Your hearing request was based on the decision of The [REDACTED] Coalition for the Homeless to apply a twelve (12) month sanction for non-compliance with your service plan.

In arriving at a decision, the State Hearings 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 Homeless Program is based on current policy and regulations. Some of these regulations state that a sanction is a negative action resulting in the temporary withholding of all benefits because of client non-compliance with the service plan (without good cause), violation of Homeless policy, or fraud.

The information submitted at your hearing reveals that you failed to comply with the terms and conditions of your June 22, 2007 service plan.

It is the decision of the State Hearings Officer to **uphold** the proposal of the Homeless Coalition to apply a twelve (12) month sanction. The sanction is effective immediately.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review
Angle McPherson, CM, Homeless Coalition

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

_____,

Claimant,

v.

Action Number: 07-BOR-1707

**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 August 22, 2007 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 August 16, 2007 on a timely appeal filed July 3, 2007.

II. PROGRAM PURPOSE:

The Program entitled Homeless Services is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Homeless Services Program is designed to assist individuals and /or families who are without available shelter and who are without sufficient resources at the time of application or referral to the Department. The intent of this program is to provide temporary assistance until the individual achieves independence or no longer meets the definition of homeless.

III. PARTICIPANTS:

_____ (participated telephonically)

Angel McPherson, CM, _____ Coalition for the Homeless

Janet Boyuk, CM, _____ Coalition for the Homeless (observing)

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Homeless Coalition was correct in its proposal to impose a twelve (12) month sanction against the Claimant for non-compliance with his service plan.

V. APPLICABLE POLICY:

Social Service Manual, Homeless Services, Chapter 33422, 33610 & 33620

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Homeless Coalition Exhibits:

HC-1 Client Notification of Sanction dated June 27, 2007

HC-2 Service Plan dated June 22, 2007

HC-3 Social Services Manual, Homeless Services, Chapter 33000

VII. FINDINGS OF FACT:

- 1) On or about June 27, 2007 the Claimant was notified via a Client Notification of Sanction (Exhibit HC-1) that his homeless benefits were being terminated. This notice states, in pertinent part:

This is to notify you that pursuant to Sections 33,443, 33600 – 33630 of the Social Services Manual, you will not be eligible for the Homeless Program benefits for a period of 12 months, beginning 7/11/07. The reason for this action is your failure to comply with the conditions of your services plan; to-wit: 33610.2 – non-compliance with the service plan without good cause. You failed to show up for scheduled appointment.

- 2) The [REDACTED] Homeless Coalition, hereinafter Homeless Coalition, representative submitted Exhibit HC-2, Service Plan signed by the Claimant on June 22, 2007, and cited Section A (Permanent Housing), Goal A2 which states “Keep all scheduled appointments.” This was put on the Claimant’s service plan because he has demonstrated a history of non-compliance with keeping scheduled appointments.
- 3) Evidence received at the hearing reveals that the Claimant failed to attend a scheduled appointment at the Homeless Coalition on June 27, 2007 and that he did not appear at the Homeless Coalition office until June 28, 2007 (as reported by the Claimant) or June 29, 2007 (reported by the Homeless Coalition). An individual can establish good cause for failing to attend a scheduled appointment by providing verification of an unplanned / untimely emergency (i.e. Doctor’s excuse, Emergency Room Discharge Notice), however, the Claimant did not call to indicate he was not going to be at the scheduled appointment and he did not provide any documentation to establish good cause.

- 4) The Claimant purported that someone stole his documents that contained a list of his appointments when he was at the library on June 24, 2007. According to this evidence, the Claimant did not stop to check and see if he had any appointments at the Homeless Coalition until the fourth (4th) or fifth (5th) day subsequent to losing his list of scheduled appointments.
- 5) WV DHHR Social Service Manual §33,422 - *The Service Plan*:
The purpose of the service plan is to allow the case manager and client to identify and document client needs and problems that contribute to the client's homelessness or inability to become self-supporting. The plan should also document the specific tasks the client is to achieve to alleviate those problems.
- 6) WV DHHR Social Service Manual §33,610 (*When Sanctions Are Imposed*):
When Sanctions Are Imposed - In order to be reasonable and prudent in the delivery of services, a sanction shall be imposed:

(2) When non-compliance with the service plan occurs without good cause
- 7) WV DHHR Social Service Manual §33,610 (1) *Client Notification*:
The Client will be notified in writing of any imposed sanction, the effective date and the period of sanction. The SS-HP-2 is to be used for this purpose. If possible, the client is to be given the notification of sanction immediately. Otherwise, the notification must be mailed to the client's last known address.

VIII. CONCLUSIONS OF LAW:

- 1) The policy that governs the Homeless Program states that sanctions are imposed when non-compliance with the service plan occurs without good cause.
- 2) The Claimant signed his service plan on June 22, 2007 and agreed to "keep all scheduled appointments."
- 3) The evidence submitted at the hearing reveals that the Claimant failed to appear for a scheduled appointment on June 27, 2007. While policy states that good cause can exist for non-compliance with the service plan, in the absence of policy defining good cause, a reasonable definition should include circumstances beyond the individual's control. In this case, the Claimant could have avoided this situation by immediately following-up with the Homeless Coalition, however, he elected to allow three (3) or four (4) days to pass before checking to see if he had any appointments. Based on this evidence, I am unconvinced that the Claimant had good cause for failure to comply with her service plan.

IX. DECISION:

It is the decision of the State Hearing Office to **uphold** the proposal of the Homeless Coalition to apply a 12 month sanction against the Claimant. This sanction is effective immediately.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of August, 2007.

**Thomas E. Arnett
State Hearing Officer**