



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 8, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 19, 2006. Your hearing request was based on the Department of Health and Human Resources' and the [REDACTED] homeless shelters' decision to apply a twelve (12) month sanction for non-compliance with shelter rules.

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 as follows: Sanctions are imposed when non-compliance with the service plan occurs without good cause or when the client fails to accept, or abide by, the shelter rules which results in eviction.

The information, which was submitted at your hearing, revealed that you violated shelter rules on seven (7) occasions that were documented.

It is the decision of the State Hearings Officer to **uphold** the actions of the [REDACTED] to apply a twelve (12) month sanction.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Keri DeMasi, [REDACTED] Homeless Shelter

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

_____,
Claimant,

v.

Action Number: 06-BOR-1745

**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 July 19, 2006 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 July 19, 2006 on a timely appeal, filed April 25, 2006.

It should be noted here that the claimant has been provided with night shelter pending a hearing decision.

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 WV Department of Health and Human Resources acknowledges the following to be its mission in providing homeless services to West Virginia residents:

1. To fairly and reasonably assess an applicant's claim for homeless services;
2. To provide emergency food, shelter and medical care in a manner respecting the dignity and rights of those receiving services;
3. To develop an individual service plan with each homeless client which defines the goals, services and tasks enabling the client to become self-supporting or to be otherwise cared for and which recognizes the responsibilities of both the client and the Department in realizing the plan's objectives; and

4. To work with state and community organizations in developing and utilizing resources and providing services which are reasonable and cost effective given state and local conditions.

III. PARTICIPANTS:

Claimant's Witnesses:

_____, claimant
_____ Valley Health Care

Department's Witnesses:

Jo Vanhorn, Program Manager [REDACTED]
Keri DeMasi, Executive Director [REDACTED]
Travis Cline, Service Coordinator [REDACTED]
Tom Davidson, Case Manager [REDACTED]
Alyssa Dorazio, Social Worker Intern [REDACTED]

Presiding at the Hearing was Sharon K. Yoho, 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 Bartlett House is correct in their decision to sanction you for twelve (12) months for non-compliance with shelter rules.

V. APPLICABLE POLICY:

Social Service Manual §33,422 a.
Social Service Manual §33,610
[REDACTED] Inc. Rules and Regulations #39

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Written warning dated August 19, 2005 for tobacco use, rule #19
- D-2 Written warnings and violations from September 1, 2006 thru January 30, 2006
- D-3 Written reports and warnings for violations from 2/28/06 thru 3/16/06
- D-4 Notice to Mr. _____ of move to night shelter dated March 17, 2006.
- D-5 Report forms and narratives from March 17, 2006 thru April 1, 2006.
- D-6 Letter dated 3/31/06 to Mr. _____ acknowledging receipt of grievance request
- D-7 April 5, 2006 written warning to Mr. _____ for violation of rule #2
- D-8 Letter to Ms. Demasi from Mr. _____ dated April 12, 2006
- D-9 Report forms and narratives from April 6, 2006 thru April 7, 2006
- D-10 Notice of Violations of rules #2, #6, #19, and #39.
- D-11 Rules & Regulations of the [REDACTED] Inc.

D-11a WV DHHR Policies Chapter 33,000

D-12 Notice of twelve (12) month sanction and hearing request

VII. FINDINGS OF FACT:

- 1) Mr. _____ was a resident of the _____ Homeless Shelter. He was advised of the Shelters Rules and Regulations.
- 2) Mr. _____ was removed from the resident shelter to the emergency night shelter on March 17 after four documented incidents where he failed to follow staff directives and for being argumentative with staff. Notification letter, (Exhibit D-4), states in part, "Rule number six states that client will follow staff directives at all times. Argumentative behavior will not be tolerated."
- 3) The claimant objected to being moved to the night shelter. On March 20, 2006, the claimant filed a grievance request regarding the decision to move him to the night shelter and regarding ethical/legal/professional and procedural issues he had against _____ Inc. On March 31, 2006, Ms. DeMasi responded in writing to Mr. _____ regarding his issues, (Exhibit D-6) she advised him of his option to appeal further to the DHHR office.
- 4) On March 17, 2006, a shelter employee was advised, by a former male client, of threats Mr. _____ had been heard making regarding the shelter. Mr. _____ was reported to have voiced intentions to bring _____ down, get _____ for violations regarding the Post Master General, report violations to the Health Department, and to authorities for school truancy issues.
- 5) On April 2, 2006, Mr. _____ delivered a 28-page letter addressed to Ms. DeMasi outlining his objections to the manner in which the _____ Shelter is operated and violations he has observed while being a resident there. On page five (5) of this letter Mr. _____ states regarding the potential for being written up for a violation of a shelter rule, "I most strongly told him what the consequences would be to him if he persisted in writing me up."
- 6) On page twelve (12) of the above-mentioned letter, Mr. _____ writes, "I don't want to go public with this, but I will". On page twenty seven (27) he writes, "I don't want to contact the police and the Board of Education about _____ condoning Truancy. I don't want to have to go to the Health Department about _____ kitchen and food. I don't want to report to the Federal Postal Inspectors of _____ staff breaking Federal Law. I don't want to call the Dominion Post or Channel 12 or 5. I do not want to publicly embarrass you or _____ If I don't want to do any of these things, then why am I telling you all this? Because out of courtesy and respect for you, I am informing you as to my intent and what steps I am prepared to take."
- 7) The _____ Staff contacted the police following the receipt of the above letter. On April 5, 2006, the _____ Staff issued a written report of violation of rule #2 to Mr. _____ for threats and intimidation.

- 8) On April 6, 2006, Ms. DeMasi issued written notification of an intended twelve (12) month sanction for one violation of shelter rule #2, three violations of rule #6 and one violation of rule #19. The noticed advised that the sanction would run through April 6, 2007.
- 9) On April 7, 2006, Mr. _____ replied with a written request for a hearing before a State Hearings Officer.
- 10) _____ Inc. Rules & Regulations:

As our goal is to assist residents in independent living, we will provide residents with temporary shelter that is safe and clean. All clients must abide by all the following rules to ensure their stay at the _____ Inc. If you fail to follow a rule, you will receive a written warning. If you receive a written warning, you may lose house privileges at the discretion of the Program Coordinator.

One (1) violation of rules 1 – 4 will result in a sanction from services. Violations will result in a 12-month sanction.

Two (2) violations of rules 5 – 11 will result in a sanction from services.

Four (4) violations of rules 13 – 48 will result in a sanction from services.

Rule 2- We tolerate no weapons, ammunition, violence, fighting, physical or verbal abuse, threats or intimidation towards any person(s) affiliated with Bartlett House Inc. If staff believes that you have these items, we reserve the right to request a search of your belongings or your person. If you refuse a search, you will be asked to leave immediately.

Rule 6 – Follow staff directives at all times. Argumentative behavior will not be tolerated. If you disagree with a staff directive, you need to address it to the Program Coordinator the next following work day.

Rule 39- Clients are required to do daily chores; it is advised that you volunteer so that staff will not have to assign chores. Chores must be signed up for by 'lights out' the day before. Saturday is _____ Inc. 'Clean Up Day' – you will be asked to complete special chores by 10:00 a.m.

- 11) The claimant testified early in the hearing that he was not aware of any written violations. He later testified about two (2) written violations that he had been made aware of. He did not deny committing any of the violations, but only to the manner in which the staff at _____ dealt with the written warnings. He also voiced many objections to the manner in which _____ shelter is operated.

12) 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.

13) WV DHHR Social Service Manual §33,600

A sanction is a negative action resulting in the temporary withholding of all benefits because of the client's non-compliance with the service plan, violation of Homeless policy, or fraud. Sanctions shall be approved by the Social Service Worker's supervisor prior to imposition. When case management is provided by contract (shelters and/or case management) approval is provided by the Director of that unit.

14) WV DHHR Social Service Manual §33,610

When Sanctions Are Imposed- In order to be reasonable and prudent in the delivery of services, a sanction shall be imposed:

-When non-compliance with the service plan occurs without good cause

-When a client fails to accept, or abide by, the shelter rules which results in eviction

VIII. CONCLUSIONS OF LAW:

- 1) [REDACTED] Shelter Rules & Regulations are designed towards the goal to assist residents in independent living. The shelter provided is to be temporary. Policy is clear that all clients must abide by all the rules to ensure their stay at the shelter. House privileges can be lost by violating rules.
- 2) Evidence and testimony given at this hearing clearly shows that this Claimant repeatedly violated rule #6 in refusing to follow staff directives. If he did not agree with the directive, he refused to abide and then would become argumentative.
- 3) Shelter documents and Mr. _____ 28 page letter support the allegation that Mr. _____ violated rule #2 by issuing verbal threats and intimidation toward staff and the [REDACTED] Inc. program. Policy provides that a twelve (12) month sanction be imposed for one violation in rules 1 – 4.

IX. DECISION:

I find that Mr. _____ repeatedly violated [REDACTED] shelter rules by not following staff directives and at least one time by issuing threats and intimidation towards staff members. I rule to **uphold** the action of the Shelter and the Department in applying a twelve (12) month sanction from receiving benefits through the Homeless Program. This sanction is to run thru April 6, 2007.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of August, 2006.

**Sharon K. Yoho
State Hearing Officer**