



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 West Washington Street
Charleston, West Virginia 25313

Joe Manchin III
Governor

Secretary

January 28, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 30, 2004. Your hearing request was based on the Department of Health and Human Resources' proposal to impose a sanction on your West Virginia Works case as a result of non-compliance with your Personal Responsibility Contract (PRC).

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 and benefit levels for the West Virginia Works Program are based on current regulations. One of the eligibility requirements is that members of the West Virginia Works assistance group must comply with requirements found on the Personal Responsibility Contract unless the worker determines that good cause exists (WV Income Maintenance Manual Sections 13.9, 13.10).

Information submitted at your hearing revealed that the Department violated adequate notice requirements by failing to provide correct information regarding the reason for the proposed adverse action on your case.

It is the ruling of the State Hearing Officer to **reverse** the proposal of the Agency to impose a first-level sanction and reduce your benefits under the West Virginia Works Program.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: Board of Review

Nancy Martinez, FSS

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

NAME: _____

ADDRESS: _____

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION

This is a report of the State Hearing Officer resulting from a fair hearing concluded on January 28, 2005 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 hearing was convened on March 30, 2004 on a timely appeal filed December 8, 2003. The hearing was originally scheduled for February 10, 2004, but was rescheduled at the request of the Claimant.

It should be noted that benefits have been continued pending the results of this hearing.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE

The program entitled West Virginia Works is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health and Human Resources.

WV WORKS was created by Senate Bill 140 Article 9 of the West Virginia Code and the Temporary Assistance to Needy Families Block Grant, Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The purpose of WV Works is to provide assistance to needy families with children so they can be cared for in their own home, reduce dependency by promoting job preparation, work and marriage. 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 the assistance programs to emphasize employment and personal responsibility.

III. PARTICIPANTS

_____, Claimant

_____, Claimant's husband

Nancy Martinez, Family Support Specialist

Presiding at the hearing was Ray B. Woods, Jr., M.L.S., State Hearing Officer and; A member of the State Board of Review.

IV. QUESTION(S) TO BE DECIDED

The question to be decided is whether the Department proposed the correct action to reduce West Virginia Works benefits due to the imposition of a first-level sanction.

V. APPLICABLE POLICY

WV Income Maintenance Manual Sections 13.9 and 13.10

Opal June Miller Amended Consent Decree, Entered October 26, 1987 2(a) - (b) (1-3), page 9

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- D-1 WV Works Personal Responsibility Contracts dated May 22, 2003
- D-2 WV Works first sanction/good cause appointment letter dated November 24, 2003
- D-3 Food Stamp benefit decrease letter dated November 24, 2003
- D-4 Rapids case comments dated November 25, 2003 through December 8, 2003
- D-5 WV Income Maintenance Manual Section 13.9

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Claimant and her husband were at the DHHR office on December 4, 2003. Ms. Martinez testified that she reminded the couple that she had not received their time sheets in several months. At that time, she received time sheets for September and October 2003. Time sheets are due on the fifth day of the month following the report month as stipulated in WV Works Personal Responsibility Contracts signed by _____ and _____ on May 22, 2003 (D-1). The November 2003 time sheet was also received on December 4, 2003 and was considered to have been received in a timely manner.
2. A first sanction/good cause appointment letter was sent to the Claimant indicating that the Claimant failed to cooperate with child support enforcement requirements.
3. The Claimant testified that she faxed in the September and October 2003 time sheets, but Ms. Martinez had stated she did not receive them. The Claimant contended she had

experienced problems with her time sheets previously when she sent them into the DHHR office and another worker received them. Mr. _____ stated that he had also faxed his time sheets to DHHR for September and October 2003 but used a fax machine that does not provide transaction verification.

4. WV Income Maintenance Manual Section 13.9 states, in part:
When a member of the assistance group does not comply with requirements found on his Personal Responsibility Contract, a sanction must be imposed unless the worker determines that good cause exists. Sanctions are applied to West Virginia Works cases in the form of check reductions and, for the third or subsequent offense, termination of benefits.

The section indicates the penalty for a first offense is a one-third reduction in the check amount that the Assistance Group is currently eligible to receive, prior to recoupment, for three months.

5. WV Income Maintenance Manual Section 13.10 states:
When the client fails or refuses to meet his work requirement and/or adhere to his Personal Responsibility Contract requirements, the worker must determine the reason for such failure or refusal. Failure or refusal to comply, without good cause, results in imposition of a sanction.

6. The Opal June Miller Amended Consent Decree, Entered October 26, 1987 2(a) - (b) (1-3), page 9 states:

(a) The Defendant, Commissioner of the West Virginia Department of Human Services, her officers, employees, agents, and all persons acting by, through, and under them, shall in all cases provide timely and adequate notice of reduction, termination, or denial; of assistance benefits, including, but not limited to: (a) timely notice, received by the claimant or recipient not less than ten (10) days prior to the effective date of adverse action; and (b) adequate notice simplified in form comprehensible to the average person, which notice shall clearly state: (1) the proposed action; (2) the reasons for the action taken; (3) specific citations to applicable policy manual sections.

VIII. DECISION

Based on evidence and testimony presented during the hearing, the State Hearing Officer determined the Department failed to provide proper notification before taking adverse action on the Claimant's case. While the proposed WV Works sanction stemmed from failure to

submit time sheets in a timely manner, the adverse action letter incorrectly indicated that the Claimant had failed to cooperate with child support enforcement requirements. Therefore, it is the decision of the State Hearing Officer to **reverse** the Agency's proposal to impose a first-level sanction and decrease benefits under the West Virginia Works Program.

IX. RIGHT OF APPEAL

See Attachment.

X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.

