



**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**

March 2, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 20, 2004. Your hearing request was based on the Department of Health and Human Resources' action 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 benefits 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: You failed to comply with the requirements of your Personal Responsibility Contract.

It is the ruling of the State Hearing Officer to **uphold** the action of the Agency to impose a 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: Alice Kayrouz, FSS

State Board of Review

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 March 2, 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 September 28, 2004 on a timely appeal filed August 3, 2004.

It should be noted here that any benefits under the West Virginia Works Program were not received during the months of June, July and August, 2004.

All persons giving testimony were placed under oath. A pre-hearing was held between the parties.

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
Alice Kayrouz, Family Support Specialist
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 took the correct action to reduce West Virginia Works benefits due to the imposition of a sanction.

V. APPLICABLE POLICY

WV Income Maintenance Manual Section 13.9 and 13.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

DEPARTMENT'S EXHIBITS:

- D-1 Case Comments dated 02/24/04 – 08/03/04
- D-2 Notice of Decision dated 05/05/04
- D-3 Personal Responsibility Contract dated 09/08/03
- D-4 WVIMM 15.3 CHILD SUPPORT REQUIREMENTS AND PROCEDURES (WV WORKS, AFDC MEDICAID AND AFDC-RELATED MEDICAID)
- D-5 PRC SANCTION REQUESTS
- D-6 ADC ISSUANCE HISTORY – DISBURSEMENT
- D-7 Hearing Summary
- D-8 GroupWise Message from Ms. Martinez dated 0928/04
- D-9 Scheduling Notice dated 08/03/04

CLAIMANT'S EXHIBITS:

- C-1 Medical Excuse 02/04/04 – 02/15/04

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Claimant signed a WV Works Personal Responsibility Contract on September 8, 2003 (D-8) agreeing to cooperate with DHHR and all vendors – ongoing.
2. Ms. Kayrouz stated _____ was sanctioned effective June, July, and August 2004 for failure to cooperate with BCSE. Her Sanction/Good Cause Letter is dated May 5, 2004. _____ came in August 3 regarding this Sanction. It was confirmed that she cooperated with Child Advocate Office, but it was after the 13 day deadline. Restoration was denied and _____ requested a Fair Hearing.
3. The Claimant was sent a sanction/good cause appointment letter on May 5, 2004 (D-2). The letter stated a good cause interview was scheduled for May 10, 2004. The Department stated the Claimant did not attend the scheduled appointment. The Claimant stated she had. The State Hearing wanted to check the Receptionist's List to determine if the Claimant was in attendance.
4. A GroupWise Message from Ms. Martinez, dated September 28, 2004 states, "_____ was in office on 05/10/04 for her good cause. At the time she had not co-operated with BCSE so the sanction still stood."
5. Ms. Kayrouz discussed the matter with worker from BCSE. Ms. _____ co-operated on May 14, 2004. This was four (4) days after the scheduled good cause appointment.
6. On June 7, 2004, Ms. Martinez recorded receiving notification from BCSE that, Ms. _____ cooperated and to release the sanction.
7. The Claimant said she was under doctor's order to stay off her feet. The Claimant's Exhibit, (C-1), excuses her from school from February 4, 2004 through February 15, 2004.
8. 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.
9. 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."

VIII. DECISION

Based on evidence and testimony presented during the hearing, the State Hearing Officer determined the Department followed proper policies and procedures in imposing a sanction on the Claimant's West Virginia Works case in conjunction with WV Income Maintenance Manual Sections 13.9 and 13.10. It is the decision of the State Hearing Officer to **uphold** the Agency's action to impose a first sanction and reduce 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.