



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 16, 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 you failed to attend GED classes as specified in your Personal Responsibility Contract.

It is the ruling of the State Hearing Officer to **uphold** 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

Mary Cae Henderson, 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 16, 2004 on a timely appeal filed January 9, 2004.

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  
Mary Cae Henderson, 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 terminate 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

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED**

- D-1 Rapids case comments dated January 8, 2004 through January 15, 2004
- D-2 WV Works Personal Responsibility Contract dated August 28, 2003
- D-3 JOBS Program referral form
- D-4 WV Works Personal Responsibility Contract dated October 3, 2003

#### **VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Ms. Henderson testified that the Claimant is 18 years old and is mandated to attend GED classes as part of WV Works Program requirements. The Claimant signed a WV Works Personal Responsibility Contract on August 28, 2003 (D-1) indicating that she would attend GED classes when her infant turned six months old.
2. The Claimant signed an updated Personal Responsibility Contract on October 2, 2003 (D-4) agreeing to begin GED classes on October 20, 2003 at Job Service for 20 hours per week.
3. On January 8, 2004, Ms. Henderson learned that the Claimant had never attended GED classes as assigned.
4. A sanction was placed on the Claimant's case effective February 2004 based on failure to meet Personal Responsibility Contract requirements.
5. The Claimant testified that she did not have money to transport her child to her mother's residence for babysitting and, also, that her mother could no longer care for the infant due

to health problems. Since the Claimant's child had been ill with a viral cold that escalated to RSV, she did not want to place the infant in a daycare center and instead attempted to locate an individual daycare provider. She stated that many children are sent to daycare centers while they are ill and she did not want her child exposed to that environment. A friend of the family agreed to care for the infant in January 2004, but that arrangement failed after one week. The Claimant testified that she did not find another individual provider until March 2, 2004.

6. 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.

7. 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 proposing the imposition of a first-level 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 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.

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