



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**State Board of Review**  
**2699 Park Avenue, Suite 100**  
**Huntington, West Virginia 25704**  
**January 5, 2005**

**Bob Wise**  
**Governor**

**Paul L. Nusbaum**  
**Secretary**

Dear Ms. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 3, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to close your WV Works assistance check case due to a third sanction.

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 WV Works assistance check Program are determined based on current regulations. One of these regulations is that when a member of the benefit group does not comply with requirements found on the PRC, a sanction must be imposed unless the Worker determines that good cause exists (WV Income Maintenance Manual Section 13.9).

The information which was submitted at the hearing revealed that you failed to complete your work assignment in the month of October, 2004 and did not have good cause for such failure.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to close your WV Works assistance check case due to a third sanction. The sanction will be imposed effective February, 2005.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Board of Review  
Peggy Adkins, Dept Hearing Rep.

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

**NAME:** [REDACTED]

**ADDRESS:** [REDACTED]

**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 3, 2005 for [REDACTED]

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 originally convened on January 3, 2005 on a timely appeal filed November 19, 2004.

It should be noted here that any benefits under the WV Works assistance check Program have been continued pending the results of this hearing.

All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE**

The program entitled WV Works assistance check Program is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The TANF Program is designed to provide financial and/or medical assistance to eligible families with children to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity or unemployment of the parents. In addition, the family must meet financial criteria.

**III. PARTICIPANTS**

1. [REDACTED] Claimant.
2. [REDACTED] Claimant's mother.
3. Peggy Adkins, Dept. Hearing Rep.

Presiding at the hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED**

The question to be decided is whether the Department proposed the correct action to close the WV Works assistance check case effective November 30, 2004 due to a third sanction.

**V. APPLICABLE POLICY**

WV Income Maintenance Manual Sections 1.25, 13.9, 24.1, 24.3, 24.4.

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED**

- " #B Copy of time sheet for October, 2004.
- " #C Copy of notification letter 11-8-04 (6 pages).
- " #D Copy of hearing request (3 pages).
- " #G Copy of regulations (14 pages).

## **VII. FINDINGS OF FACT**

1. Ms. [REDACTED] was a recipient of the WV Works assistance check program and completed and signed a Personal Responsibility Contract (PRC) on 9-16-04 and agreed to complete community service hours of no less than 30 hours per week at [REDACTED] on 9-20-04 (Exhibit #A).
2. A time sheet was received on 11-5-04 which showed that the claimant worked only 12 hours and 40 minutes during the month of October, 2004 and reported sick three (3) days (Exhibit #B).
3. A third sanction was imposed on the WV Works assistance check case with notification issued on 11-8-04 to close the WV Works assistance check case effective 11-30-04 and scheduling a good cause interview appointment on 11-12-04 at 9:00 a.m. (Exhibit #C).
4. The claimant came to the local office on 11-10-04 to ask what was needed for her good cause interview and reported that she had been sick and could not work her activity in October, 2004 and was informed by Ms. Adkins to provide any doctor statements for the hours she missed at the good cause interview on 11-12-04.
5. The claimant did not keep the good cause interview appointment on 11-12-04 and the sanction remained in effect and the claimant requested a hearing on 11-19-04 (Exhibit #D).
6. The claimant testified that she had issues while working at the day care and became depressed and had no motivation due to problems she experienced as a child and that she is receiving help through [REDACTED].
7. The claimant testified that she started going to [REDACTED] in November, 2004 but did not notify Ms. Adkins that she could not report to the Community Services activity in October, 2004..
8. The claimant's mother testified that the claimant could not function at the time (in October, 2004) and that she had been at [REDACTED] 3-4 times for treatment for her problems and that she suffered from depression and anxiety.
9. Ms. Adkins testified that the claimant completed the PRC section regarding challenges and did not report to her that she had any medical problems.
10. The claimant testified that she did not report to Ms. Adkins that she could not report for her activity assignment.

## **CONCLUSIONS OF LAW**

1. WV Income Maintenance Manual Section 13.9 states, in part:

"Sanctions are applied to WV Works cases in the form of check reductions, and for the 3rd or subsequent offense, termination of cash assistance. The amount of the check reduction is a fixed amount and is determined as follows:.....

3rd Offense and all subsequent offenses = Ineligibility for cash assistance for 3 months or until compliance, whichever is later".

2. WV Income Maintenance Manual Section 13.10 states, in part:

"When the client fails or refuses to meet his work requirements and/or adhere to his PRC requirements, the Worker must determine the reason for such failure or refusal.

Failure or refusal without good cause results in imposition of a sanction.....

The client has good cause for failure to participate when:

- A single parent can prove that child care is unavailable for his child, age 6 or under.
- He is required to appear in court or for jury duty.
- He is experiencing a family crisis such as:
  - Death of spouse, parent, or child or stepchild.
  - A life threatening illness of a spouse, parent, or child.
  - Domestic violence and/or the need to protect abused children.....
  - The minimum suitability standards for the specific activity are not met.
- Based on knowledge of the client and his life circumstances, the Worker determines that the client has not met the requirement, but has complied to the best of his ability.
- A requirement of Social Services precludes participation for a specified period of time.
- He refuses to accept surgery which would eliminate or significantly improve his condition, even if the refusal precludes participation.
- He would be required to travel more than one hour each way to participate."

## **VIII. DECISION.**

Based on the evidence and testimony presented during the hearing, I must uphold the proposal of the Department to close the WV Works assistance check case due to a third sanction. The claimant admitted that she failed to complete the hours required for Community Services and testified that she had problems with depression and anxiety which prevented her from working. However, the claimant also testified that she did not report such problems to her caseworker, Ms. Adkins. The claimant signed the PRC on 9-16-04 agreeing to complete 30 hours of Community Services and the claimant provided no documentation to show that she was unable to complete her assignment in the month of October, 2004. In addition, the claimant failed to keep the good cause interview appointment on 11-12-04 and failed to establish good cause during the advance notice period. WV Income Maintenance Manual Section 13.9 clearly states that "when a member of the AG does not comply with requirements found on his PRC, a sanction must be imposed unless the Worker determines that good cause exists". In this case, good cause was not established and the State Hearing Officer must uphold the proposal of the Department to close the WV Works assistance check case effective November 30, 2004 due to a third sanction. The sanction will be imposed effective February through April, 2005.

## **IX. RIGHT OF APPEAL**

See Attachment.

## **X. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.