



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Bob Wise
Governor

Paul L. Nusbaum
Secretary

January 11, 2005



Dear Mr. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 6, 2004. Your hearing request was based on the Department of Health and Human Resources' action to reduce your benefits under the West Virginia Works Program based on application of a program 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 for the West Virginia Works Program is based on current policy and regulations. Some of these regulations state that when a member of the benefit group does not comply with the requirements found on their Personal Responsibility Contract, a sanction must be imposed unless it is determined that good cause exists. For a first offense the sanction consists of a 1/3 reduction in the check amount for 3 months. (West Virginia Income Maintenance Manual § 13.9)

The information which was submitted at the hearing revealed that you were unable to establish good cause for failing to comply with the agreed requirements in your December 18, 2003 Personal Responsibility Contract.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in applying a first (1st) Sanction to your WV WORKS benefits.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Kimberly Cox, FSS, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
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 11, 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 scheduled and convened on December 6, 2004 on a timely appeal filed September 14, 2004.

It should be noted here that benefits under the WV Works Program were reduced effective September 1, 2004.

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 Government 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 (Public Law 104-193). 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.

III. PARTICIPANTS:

[REDACTED] Claimant
Kimberly Cox, FSS, Agency Representative
Presiding at the hearing was Thomas E. Arnett, 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 Agency was correct in reducing assistance benefits by applying a West Virginia Works Program sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section § 1.25, 13.9 and 13.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 PRC signed by the Claimant on 12/18/03.
- D-2 WT-10, WV Works Appointment Notice dated 8/5/04
- D-3 Notice of Decision dated 8/13/04.
- D-4 WVIMM 1.25, 13.9 & 24.4.

VII. FINDINGS OF FACT CONCLUSIONS OF LAW:

- (1) The Claimant was an active recipient of WV WORKS benefits when Kimberly Cox, a Family Support Specialist, scheduled an appointment in the [REDACTED] DHHR (D-2) for August 12, 2004. Exhibit D-2 states that the purpose of the appointment is to complete necessary paper work to submit medical records to the Medical Review Team regarding your exemption from work requirement.
- (2) The Department contends that the Claimant signed his Personal Responsibility Contract (D-1) on December 18, 2003 agreeing to keep all scheduled appointments with the DHHR.
- (3) The Department sent a Notice of Decision on August 13, 2004, exhibit D-3, which includes the following information:

ACTION: Your WV WORKS will decreased from \$420 to \$281 effective 9/1/04.

REASON: A first sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).

A Good Cause appointment was scheduled for 8/20/04 at 10:30 a.m.

- (4) The Claimant failed to attend the good cause appointment scheduled for August 20, 2004, and as a result, the Department imposed the first (1st) sanction effective September 1, 2004 through November 30, 2004.
- (5) Testimony offered by the Department indicated that a second appointment was scheduled for the Claimant and he failed to appear. A second sanction letter was issued, however, the Claimant established good cause for failing to attend the second appointment. Good cause could not be given for the first missed appointment as the sanction was imposed when he failed to attend the good cause appointment.
- (6) The Claimant testified that his daughter had undergone surgery in August 2004 and had been making several trip back-and-forth from the hospital. He believes he received the appointment letter and would not have missed the appointments but his focus was on more important issues.
- (7) Kimberly Cox testified that the first (1st) sanction could not be lifted because the Claimant failed to attend the good cause appointment.
- (8) West Virginia Income Maintenance Manual § 1.25 (T):
Refusal or other failure, without good cause, to adhere to Part 1 of the Personal Responsibility contract (PRC) or self-sufficiency plan (Part 2), results in imposition of a sanction.
- (9) West Virginia Income Maintenance Manual § 13.9:
When a member of the benefit group does not comply with the requirements found on his PRC, a sanction

must be imposed unless the worker determines that good cause exists.

1st Offense- 1/3 reduction in the check amount... for 3 months.

2nd Offense- 2/3 reduction in the check amount... for 3 months.

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

- (10) West Virginia Income Maintenance Manual § 13.10 sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract.
- (11) West Virginia Income Maintenance Manual § 13.9,A (NOTE) states that once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed or the appropriate action is taken, whichever is later.

VIII. DECISION:

The Claimant signed his PRC on December 18, 2003 agreeing to keep all scheduled appointments and interviews as a condition of receiving benefits through the WV WORKS Program. The Claimant failed to keep a scheduled appointment and he did not attend his good cause interview. Policy provides that once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed or the appropriate action is taken, whichever is later.

Based on the evidence presented, I am ruling to **uphold** the Agency's action to apply a 1st sanction in your WV WORKS case.

IX. RIGHT OF APPEAL:

See Attachment

X. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29