



**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**

**Joe Manchin III**  
**Governor**

**Martha Yeager Walker**  
**Secretary**

March 18, 2005

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 23, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your benefits under the West Virginia Works Program based on the application of a (3<sup>rd</sup>) third 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 his or her Personal Responsibility Contract (PRC), a sanction must be imposed unless it is determined that good cause exists. For a third offense and all subsequent offenses, the sanction consists of ineligibility for cash assistance for 3 months or until compliance, whichever is later. The imposition of a sanction may be delayed by a Fair Hearing request, but when the Department is upheld, the sanction begins in the month following the Fair hearing decision. (West Virginia Income Maintenance Manual § 13.9)

The information submitted at the hearing reveals that you failed to comply with the requirement found in you November 16, 2004 Personal Responsibility Contract.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to apply a third (3<sup>rd</sup>) sanction to your WV WORKS benefits. The third (3<sup>rd</sup>) sanction will be imposed effective May 1, 2005.

Sincerely,

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

cc: Chairman, Board of Review  
Christine Murphy, 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 March 18, 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 fair hearing was originally convened on February 23, 2005 on a timely appeal filed December 28, 2004.

It should be noted that benefits were continued pending the results of the 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 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:**

\_\_\_\_\_, Claimant

\_\_\_\_\_, Claimant's friend

Christine Murphy, Family Support Specialist, DHHR

Marsha Spiker, Family Support Specialist, DHHR

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 their proposal to impose a 3<sup>rd</sup> Sanction in the Claimant's West Virginia Works case.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section ' 1.25, 13.9, 13.10 & 24.4

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

### Department's Exhibits

- I. Notice of Decision dated 12/16/04.
- II. Pre-Hearing Conference.
- III. Case Comments from 11/16/04 – 1/25/05.
- IV. Personal Responsibility Contract (PRC) 11/15/04 & 11/16/04.
- V. WVIMM Chapter 1.25(T), 13.9, and 24.4.

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

1. The Claimant was notified in a letter dated December 16, 2004 (exhibit I) that a third (3<sup>rd</sup>) sanction was being applied to her WV Works case. The notice states, in pertinent part:

Action: Your WV WORKS will stop. You will not receive this benefit after December 2004.

Reason: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).

This notice goes on to say that a Good Cause interview for \_\_\_\_\_ was scheduled for 12/28/04 at 9:00.

2. The Department contends that the Claimant failed to comply with the requirements of her Personal Responsibility Contract, hereinafter PRC, when she did not turn verification that she had registered with the WV Job Service or provide a doctor's statement regarding work limitations within the time allotted on her PRC.
3. The Department submitted Exhibit IV, the Claimant's current PRC, and cited the third paragraph on Part 1 which states – My plan will have time limits set for me to do assignments/activities and to reach my goals. I must follow my plan or I will be sanctioned. I will work with my Family Support Specialist (FSS) to develop a Self-Sufficient Plan which is part of this document. Part 1 of the PRC was signed by the Claimant on 11/15/04.
4. The Self-Sufficient Plan, also included in Exhibit IV, provides the following requirements:  
#7 - Submit Dr.'s statement identifying what you are able to do (Due on 11/26/04)  
#8 - Register with job service and verify to Worker. (Due on 11/26/04)  
The Claimant initialed each of these requirements and signed Part 2 of the PRC (Self-Sufficiency Plan) on 11/16/04 agreeing cooperate and participate with all assignments and activities listed.
5. The Department submitted West Virginia Bureau of Employment Program registration verification form (included in Exhibit 4) that is dated 12/1/05 (should read 12/1/04), received by the Department on December 6, 2004 as verified by the Department's date-stamp. This document was 10-days late.
6. The Department submitted OFS-RT-5, West Virginia Department Health and Human Resources, General Physical (Adults), completed by the physician on 12/1/04 and received by the Department on December 28, 2004. This document was submitted 32-days late.
7. The Claimant testified that she thought she turned both of the forms in on the same day (12/6/04), however, she has difficulty with her memory and she could not be certain. The Claimant testified that she has been diagnosed with Schizophrenia and Post Traumatic Stress Syndrome (PTSS). In addition, she has panic attacks, agoraphobia, and depression. She stated that she has also had a lot of car problems.

8. The Department considered the Claimant's medical condition when the Self-Sufficiency plan was written and a doctor's statement was appropriately requested.
9. Policy found in Chapter 1.25, T, provides that the PRC form (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the WV WORKS AG and the Worker. Failure, without good cause, to adhere to the responsibilities contained in Part 1 of the PRC results in imposition of a sanction against the benefit group. Refusal or other failure, without good cause, to adhere to the self-sufficiency plan (Part 2 of the PRC) results in imposition of a sanction against the benefit group.
10. 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.  
1<sup>st</sup> Offense- 1/3 reduction in the check amount for 3 months.  
2<sup>nd</sup> Offense- 2/3 reduction in the check amount for 3 months.  
3<sup>rd</sup> Offense and all subsequent offenses-Ineligibility for cash assistance for 3 months or until compliance, whichever is later.
11. West Virginia Income Maintenance Manual § 13.9C:  
Imposition of a sanction may be delayed by a Fair Hearing request. When the Department is upheld, the sanction begins in the month following the Fair hearing decision.
12. 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.

### **VIII. DECISION:**

Policy states that when a member of the benefit group does not comply with the requirements found on his or her Personal Responsibility Contract, a sanction must be imposed unless the worker determines that good cause exists. The sanction for a third and all subsequent offenses consists of ineligibility for cash assistance for 6 months or until compliance, whichever is later. A finding of good cause is based on the circumstances of the case. Situations constituting good cause are specifically outlined in current policy.

The evidence submitted in this case confirms that the Claimant did not comply with the agreements found in her November 2004 Personal Responsibility Contract when she failed submit requested documentation within the allotted time. The Claimant acknowledged that she turned the forms in late and she was unable to establish good cause for non-compliance.

It is therefore the decision of the State Hearing Officer to **uphold** the Agency=s proposal to apply a third (3<sup>rd</sup>) sanction to your WV Works case. The third (3<sup>rd</sup>) sanction will be imposed effective May 1, 2005.

### **IX. RIGHT OF APPEAL:**

See Attachment

### **X. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29