



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 19, 2005

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 7, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your benefits under the WV WORKS Program..

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 WV WORKS is based on current policy and regulations. Some of these regulations state as follows: when a member of the benefit group does not comply with requirements found on his PRC, a sanction must be imposed unless the worker determines that good cause exists. Sanctions are applied to WV Works cases in the form of check reductions and, for the 3rd or subsequent offense, termination of benefits. (Section 13.9 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that you did not comply with the terms of your Personal Responsibility Contract and did not show good cause for not doing so within the applicable time frames.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to reduce your benefits..

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Gayla Adkins, DHHR

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

____,

Claimant,

v.

Action Number: ____

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on July 7, 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 convened on July 7, 2005 on a timely appeal, filed April 26, 2005.

It should be noted here that the claimant's benefits have been continued pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled WV WORKS is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

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.

WV Works will expect and assist parents and caretaker-relatives in at-risk families to support their dependent children. Every parent who receives cash assistance has a responsibility to participate in an activity to help prepare for, obtain and maintain gainful employment. WV Works will promote the value and the capabilities of individuals.

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
Angela Harvey, Family Support Specialist, DHHR
Gayla Adkins, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department is correct in applying a sanction because the claimant did not comply with the terms of her Personal Responsibility Contract and did not show good cause for not doing so.

V. APPLICABLE POLICY:

Sections 1.25T, 13.8, 13.9, 24.13 and 13.10 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of notification letter dated 04/21/05
- D-2 Copy of IG-BR-29 Hearing/Grievance Record Information
- D-3 Hearing Appointment Letter
- D-4 Copy of OFS-TS-12 Time sheets for 94/05
- D-5 Copy of WVIMM sections 13.8C and 24.13
- D-6 Copy of Part 1, PRC Contract dated 09/23/04
- D-7 Copy of PRC updated 02/22/05
- D-8 Copy of Case Comments
- D-9 Copy of Department's Summary

VII. FINDINGS OF FACT:

- 1) The claimant and [REDACTED] have been recipients of West Virginia Works (WVW) benefits for eleven months.. Mr. [REDACTED] is exempt from an activity because MRT has determined him disabled. ____ is nineteen years of age so due to her age she is required to participate in an educational activity.

- 2) A Personal Responsibility Contract was signed 02/22/05. ____ agreed to attend Even Start and GED class twenty (20) hours per week. (D-7)
- 3) The claimant began having problems meeting the requirement from the onset of receiving assistance. The claimant moved out of town and transportation became an issue. Good cause was granted
- 4) An MDT meeting was scheduled on 04/05/05. Those present were the claimant, ____, the GED instructor, a representative from [REDACTED], the case worker and her supervisor. The issue of transportation was discussed and resolved. It was stressed to the claimant she had to participate due to her age . The claimant was to start participating in [REDACTED] parenting class the afternoon of 04/05/05 and she failed to do so. On 04/06/05 the claimant moved to [REDACTED] which eliminated all transportation issues. The claimant continued not to comply with her PRC agreement.
- 5) The claimant's timesheet for 04/05 shows a total of 18 hours. (5 hours per week) (D-4)
- 6) A letter notifying the claimant of a first sanction was sent 04/21/05. (D-1) A good cause appointment was scheduled for 04/26/05. Good cause could not be established and a hearing was requested. Benefits have been continued. Ms. ____ testified she did not go to class on 04/05/05 because she went back to [REDACTED] to pack for the move to [REDACTED]. She does not understand why she had to go to parenting class as it is not hard to take care of a kid. Her GED time was short. She stated she was sick several days in April.
- 7) Ms. Harvey testified that they are allowed to give three excused absences a month, She did not receive any doctor's statements from the claimant, Even with three excused absences she did not meet the work requirement. Both parents were attending GED classes at the time of application and planned to continue. [REDACTED] was determined disabled and he is the one that got the temporary exemption. Only one parent can have the exemption.
- 8) The child was born 09/18/04.
- 9) Section 13.8 of the West Virginia Income maintenance Manual reads in part: One parent included in the AG with a child under the age of twelve months may be temporarily exempt for 6 months.
- 10) Section 24.13 of the West Virginia Income Maintenance Manual reads in part that under Federal Law, an educational activity is mandatory for parents under the age of 20 and does not have a high school diploma or equivalent. Under State Law, any WV WORKS recipient who must meet a federal requirement may elect to to participate in any educational activity.
- 11) Section 1.25T of the West Virginia Income Maintenance Manual reads in part:

The Personal Responsibility Contract (PRC), form OFA-PRC-1, is negotiated contract between the adult or emancipated minor members of the WV WORKS AG and the Worker as the representative of the Department. There are 2 parts to the form and each serves a different purpose. Refusal or other failure, without good cause, to sign either part of the form results in ineligibility for the entire AG. Completion and signature of

both parts of the form are required prior to approving the WV WORKS AG.

Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the AG. No sanction may be imposed for failing to adhere to any provision that is not specifically addressed on the PRC at the time the failure occurred.

PRC - Part 1

Part 1 of the PRC is the same for all clients. It states the purpose of the WV Works Program and lists the client=s rights and responsibilities. Each adult and emancipated minor AG member must sign Part 1 of his own PRC. In addition, the worker must sign the form as the Department=s representative. The client=s signature indicates that he understands and accepts the responsibility inherent in the Program. The worker=s signature indicates that he has explained the client=s rights and responsibilities and the Department=s responsibilities to the client. It also indicates that the worker has addressed all of the client=s questions and concerns before requesting him to sign it.

PRC - Part 2

Part 2 of the PRC is specific to each individual and is the Self Sufficiency Plan. It lists the goals as well as the tasks necessary to accomplish the goals, including specific appointments, assignments, or activities for the adult/emancipated minor. In addition, Part 2, identifies the circumstances which impede attainment of the established goals and specifies the services needed to overcome the impediments.

The client must initial each change to the Self-Sufficiency Plan when it is made on the paper form. His initials indicate his agreement to the revisions.

The Self-Sufficiency Plan is a negotiated contract between the Department and the client. Even though it must be completed prior to the approval of the case, it is a working document and revisions are made when either the client or the Worker believes it is necessary. Frequent changes are expected as the client progresses toward his goal.

- 12) Section 13.9 of the West Virginia Income Maintenance Manual reads in part:

When a member of the benefit group does not comply with requirements found on his PRC, a sanction must be imposed unless the worker determines that good cause exists.

DEFINITION OF SANCTION

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

1st Offense = 1/3 reduction in the check amount, prior to recoupment, that the AG is

currently eligible to receive, for 3 months

2nd Offense = 2/3 reduction in the check amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months. If the case is in a 1/3 reduction when the 2nd sanction is applied, the 2/3 reduction is applied to the check amount the client is currently eligible to receive, prior to recoupment; it is not applied to the check amount which has already been reduced by 1/3.

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

All benefit reductions due to imposition of a sanction require advance notice. unless the client shows good cause for non-compliance, the sanction is imposed. This is true even if the client complies after the notice is sent but before the sanction is effective.

Once a reduction in benefits or ineligibility is imposed, i.e., after expiration of the advance notice period, the reduction or ineligibility remains in effect for the pre-determined number of months, regardless of case status.

13) Section 13.10 of the West Virginia Income Maintenance Manual reads in part:

If a parent or other caretaker relative included in the payment quits or refuses employment within the 30 day period prior to the date of application or 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. When the worker discovers the failure or refusal, a notice of adverse action must be issued.

NOTE: To avoid imposition of a sanction due to good cause, the good cause must be established during the advance notice period. 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.

The client has good cause for failure to participate when:

- The parent or included non-parent caretaker quits employment or fails to participate in his assigned activity due to enrollment and full-time in school, training or an institution of higher learning. College is defined as a 2- or 4 year undergraduate degree program.
- S A single parent can prove that appropriate child care is unavailable for his child, age 6 or younger.
- S He is required to appear in court or for jury duty.
- S He is experiencing a family crisis such as:

- ! Death of his spouse, parent, child or stepchild
 - ! A life-threatening illness of a spouse, parent or child requires the client=s immediate attention.
 - ! Domestic violence and/or the need to protect abused children makes participation impossible, dangerous or embarrassing and the client accepts a referral to Social Services or a Domestic Violence center for assistance.
 - ! The minimum suitability standards for a 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, understanding of the requirement, understanding of the sanction process and/or level of motivation. The worker has considerable discretion in imposing a sanction. The worker may determine that the requirement was inappropriate based upon additional assessment. In addition, the worker may determine that not applying a sanction in a particular situation provides more motivation for future participation than the imposition of a sanction.
- S A requirement of Social Services precludes participation for a specified period of time.
- S He refuses to accept surgery which would eliminate or significantly improve his condition, even if the refusal precludes participation.
- S He would be required to travel more than one hour each way to participate, unless it can be shown that local community standards exceed the one-hour limitation.

All good cause determinations must be recorded in RAPIDS. The recording must include the reason the worker did not or did impose a sanction.

VIII. CONCLUSIONS OF LAW:

- 1) The claimant is age 19 and does not have a high school diploma or equivalent. She is required to be in an educational activity.
- 2) The claimant signed the PRC 02/22/05 agreeing to attend GED and [REDACTED] classes 20 hours per week.

- 3) The claimant did not comply with terms of her PRC and did not show good cause for not doing so. There was no convincing testimony or evidence by the claimant to change the Department's determination.
- 4) Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the AG.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to apply a sanction for failure of the claimant to adhere to the terms of her Personal Responsibility Contract. The action described in the notification letter dated April 21, 2005 will be taken.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of September, 2005.

**Margaret M. Mann
State Hearing Officer**