



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. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 29, 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 benefits 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 complete requirements of the SPOKES class as specified in your Personal Responsibility Contract.

It is the ruling of the State Hearing Officer to **uphold** the action of the Agency to impose a third-level sanction and terminate 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: State Board of Review
[REDACTED], FSS

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 28, 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 hearing was convened on April 29, 2004 on a timely appeal filed March 3, 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 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

[REDACTED] Claimant
Myhaulina Workman, Family Support Specialist
Vikki Nichols, Family Support Supervisor

Sherry Williams, Workforce WV instructor

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 third-level sanction.

V. APPLICABLE POLICY

WV Income Maintenance Manual Sections 13.9 and 13.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- D-1 WV Works Personal Responsibility Contract dated December 2, 2003
- D-2 WV Works first sanction/good cause appointment letter dated February 4, 2004
- D-3 SPOKES Student Time Sheet
- D-4 Student report from Workforce WV
- D-5 Pre-hearing conference letter dated March 16, 2004
- D-6 WV Income Maintenance Manual Section 1.25
- D-7 WV Income Maintenance Manual Section 13.9
- D-8 WV Income Maintenance Manual Section 24.4

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Claimant signed a WV Works Personal Responsibility Contract on December 2, 2003 (D-1) agreeing to attend a SPOKES class from 8:30 a.m. to 3 p.m. daily for six weeks.
2. Ms. Workman said the Department received information that the Claimant did not complete the final portion of the SPOKES class, so a third-level sanction was placed on the Claimant's case.
3. A SPOKES Student Time Sheet (D-3) reveals that the Claimant did not attend class January 27-29, 2004. County schools had been cancelled on January 26 and January 30, 2004.
4. A third-level sanction/good cause interview letter dated February 4, 2004 (D-2) was sent to the Claimant. The good cause appointment was scheduled for February 13, 2004. The Claimant did not attend the appointment.

5. The Claimant testified that she did not attend her good cause appointment because she did not receive a letter advising her of that meeting. She said she was scheduled to meet with her worker, Vickie Harper, and Ms. Williams on January 26, 2004 to review her SPOKES hours and determine what course work needed to be completed. However, county schools were closed on January 26 due to inclement weather and the meeting never took place. The Claimant testified that she attempted to contact Ms. Harper the following week to reschedule the meeting, however, Ms. Harper was out of the office on sick leave. The Claimant said she had not attended class January 27-29 because she assumed she was finished with her six weeks of course work. She said she had contacted her worker and explained that she had no transportation or funds to repair her vehicle, but that she could ride the school bus to attend her CWEP assignment. Arrangements were made for bus transportation to the CWEP assignment and the Claimant said she assumed that she did not have to return to the SPOKES class. She stated she did not speak with Ms. Williams about whether she had completed requirements for the class.
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 third offense is ineligibility for cash assistance for three months or until compliance, whichever is later.

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 imposing a third-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 action to impose a third-level sanction and terminate 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.