



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 10, 2005



Dear Ms. [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' proposal to terminate your benefits under the West Virginia Works Program based on application of a 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 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. For a third and all subsequent offenses the sanction consists of ineligibility for cash assistance for 3 months or until compliance, whichever is later. (West Virginia Income Maintenance Manual § 1.25 & 13.9)

The information submitted by the Department failed to include a Personal Responsibility Contract with your signature.

It is the decision of the State Hearing Officer to **reverse** the action of the Agency in applying a third (3<sup>rd</sup>) sanction to your WV WORKS benefits.

Sincerely,

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

cc: 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 10, 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 December 6, 2004 on a timely appeal filed September 16, 2004.

It should be noted that benefits were order to be reinstated to the previous level 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:**

[REDACTED], Claimant  
Kimberly Cox, FSS

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 action 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 and 24.4 (D).

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

- D-1 Notice of third sanction dated August 16, 2004
- D-2 Personal Responsibility Contract (PRC) signed by Worker on 8/5/04 (Claimant did not sign)
- D-3 CWEP Individual Participation Agreement, signed by the Claimant on 8/5/04.
- D-4 Notice of Appointment dated 8/6/04. Appointment scheduled at DHHR for 8/16/04 @ 9:30 a.m.
- D-5 WVIMM Policy Manual sections 1.25, 13.9, 24.4.
- D-6 Verification of the Claimant's doctor's appointment, received by DHHR on 12/16/04.
- C-1 Verification that [REDACTED] had a doctor's appointment on August 16, 2004 and that her daughter was hospitalized on August 22, 2004

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

1. The Claimant was notified in a letter dated August 16, 2004 (D-1) that a third sanction was being imposed in her WV Works case. The notice states - "This sanction is being applied due to the failure of [REDACTED] to comply with the terms of the Personal Responsibility Contract by not attending CWEP activity at Community Resources; Not attending appointment on 8/16."
2. The Claimant's case was transferred to [REDACTED] County on September 16, 2004. The Claimant was in the [REDACTED] County Department office on that date and requested a hearing to appeal the imposition of a third (3 ) sanction.
3. The Department submitted a PRC Agreement (D-2) that was not signed by the Claimant and a CWEP individual participation Agreement (D-3) signed by the Claimant on 8/5/04. According to this document (D-3), the Claimant was to begin working at [REDACTED] on 8/9/04.
4. The Department submitted D-4, Notice of an appointment at the [REDACTED] DHHR Office on 8/16/04 and stated that the Claimant failed to attend this meeting as well.
5. A "good cause" appointment was scheduled for the Claimant on August 23, 2004 (D-1), however, testimony offered by the Department indicated that the Claimant did not attend this meeting.
6. The Claimant testified that she had a doctor's appointment on August 16, 2004 and her daughter was in the hospital on August 23, 2004. She stated that she was unable to attend the CWEP work appointment on August 9, 2004 because she only had four (4) days notice and was unable to arrange for day care. She stated that her previous Worker made her sign the CWEP agreement before the document was filled out.
7. The record remained open for a period of 10-days to allow the Claimant an opportunity to provide verification for not attending the scheduled appointments.
8. The Claimant provided exhibit C-1, verification that she had a doctor's appointment with Dr. [REDACTED] on August 16, 2004, and that her daughter was in the hospital on August 22, 2004, (not 8/23/04), but indicated that she was still very ill on 8/23/04..
9. West Virginia Income Maintenance Manual § 1.25 (T):  
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.

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 § 13.10 sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract.

### **VIII. DECISION:**

Policy provides that a sanction may only be imposed after the individual has signed the PRC. The Department failed to provide a copy of a PRC signed by the Claimant agreeing to the responsibilities or tasks listed on the PRC.

Based on the evidence presented, a third (3<sup>rd</sup>) sanction cannot be imposed. It is therefore the decision of the State Hearing Examiner to **reverse** the Agency's action to apply a third (3<sup>rd</sup>) sanction to your WV Works case. Benefits will be reinstated retroactively to the date in which the sanction became effective.

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

See Attachment

### **X. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29