



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 25, 2005



Dear Mr. and Mrs. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 11, 2004. Your hearing request, was based on the Department of Health and Human Resources' action to impose a West Virginia Works 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 and benefit levels for WV WORKS are determined based on current regulations. One of these regulations specifies that,

"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 cash assistance. 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 benefit group is currently eligible to receive, for 3 months

2nd Offense = 2/3 reduction in the check amount, prior to recoupment, that the benefit group 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 an all subsequent offenses = Ineligibility for cash assistance for 6 months or until compliance, whichever is longer.” (West Virginia Income Maintenance Manual Section 13.9 SANCTIONS);

“When the client fails or refuses to meet his work requirements and/or adhere to 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 is issued...

NOTE: A good cause determination is not required when the client is exempt from participation.

NOTE: To avoid imposition of a sanction due to good cause, the good cause must be established during the advance notice period”. (West Virginia Income Maintenance Manual Section 13.10 GOOD CAUSE FOR FAILURE TO PARTICIPATE).

The information submitted at the hearing revealed: The Department did not provide documentation that, you failed to comply with the requirements of your Personal Responsibility Contract (PRC).

It is the decision of the State Hearing Officer, to **Reverse** the action of the Department, to impose a West Virginia Works Sanction. The [REDACTED] will be issued an auxiliary payment for May and June, 2004 and be opened effective July, 2004.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Jordan McVey, Family Support Specialist

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 25, 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 convened on June 11, 2004 on a timely appeal filed April 20, 2004.

It should be noted here that, The [REDACTED] WV WORKS Benefits were sanctioned effective May, 2004. A pre-hearing conference was held between the parties.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE

The program entitled WV WORKS and Food Stamps are set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The purpose of WV WORKS is to provide assistance to needy families with children so they can be cared for in their home, reduce dependency by promoting job preparation, work and marriage.

WV WORKS will expect and assist parents and care-taker 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 program by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

III. PARTICIPANTS

[REDACTED] Claimant
[REDACTED], Claimant
Jordan McVey, Family Support Specialist - [REDACTED] County DHHR

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

Did Mr. [REDACTED] comply with the terms and responsibilities of his Personal Responsibility Contract (PRC)?

V. APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 1.25 T (1 & 2) PERSONAL RESPONSIBILITY CONTRACT (PRC); West Virginia Income Maintenance Manual Section 13.9 SANCTIONS; West Virginia Income Maintenance Manual Section 13.10 GOOD CAUSE FOR FAILURE TO PARTICIPATE and; West Virginia Income Maintenance Manual Chapter 24.4 LOCAL OFFICE RESPONSIBILITIES IN THE WORK PROGRAM ASPECT OF WV WORKS.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- D-1 Hearings Summary
- D-2 Personal Responsibility Contract ([REDACTED]) dated 02/19/04
- D-3 Personal Responsibility Contract ([REDACTED]) dated 02/19/04
- D-4 WVIMM Section 15.7 REQUIREMENT FOR BEING ENGAGED IN WORK (WV WORKS)
- D-5 WVIMM Section 13.9 WV WORKS SANCTIONS
- D-6 Scheduling Notice dated 04/26/04

VII. FINDINGS OF FACT

– Ms. McVey provided the following testimony:

“This case was transferred in from [REDACTED] County near end of December. It was the first of February before I started trying to get them into the office to update PRC’s and get into a Work activity. I had them scheduled into the office on February 13th but they did not show. I sent a Good Cause appointment and they came in on February 19th.

I updated Mr. [REDACTED] PRC to start GED class on March 1st and to go to GED class regularly and send timesheets in on time and he agreed to do this.

However, I never received a timesheet for March and I called the GED class and was told at that time, he had never registered for the class. I discovered later that they only went back a couple of weeks. This call and recording was made on April 1, 2004.

Mr. [REDACTED] came into the office on April 9th for Good cause. He stated he did register for GED class and went quite a bit. I told him I would call the GED class again the following Monday and, if he was in class and they could verify he went to class in March, I would lift the sanction.

I called GED class on April 13th and [REDACTED] was not in class. They did find a timesheet for him showing he only went to class two days in March for a total of 7 hours. Since he was not back in class, I sent Mr. [REDACTED] a letter to let him know the sanction would not be lifted and, if he was not in class the next Monday and attended on a regular basis, a second sanction would be imposed.

Mr. [REDACTED] called on April 19th to report he was back in class but he wanted to request a hearing on the first sanction. He could not find his letter and was verbally requesting one.

- Ms. McVey did not provide a copy of the March, 2004 Timesheet and; the Good Cause Letter.
- The Personal Responsibility Contract for Mr. [REDACTED] did not reflect when the timesheets were to be received by the Department.
- The decision was given at the conclusion of the hearing.

VIII. CONCLUSIONS OF LAW

- **West Virginia Income Maintenance Manual Chapter 1.25 T (1 & 2) Personal Responsibility Contract (PRC)** states in part:

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.

Some of the items listed on the PRC duplicate information on the OFS-2. However, the signature on the OFS-2 does not substitute for the signature on the PRC and vice versa.

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 and 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 services listed on the form may be Support Service Payments or any other type of service provided to the client or to which he has been referred. When there are no support services available at the time to appropriately address the barrier, the Worker must note this on the form and periodically review the availability of needed services.

The client must initial each change to the Self-Sufficiency Plan when it is made on a 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 approval of the case, it is a working document and revisions are made when either the client or the Worker believes it necessary. Frequent changes are expected as the client progresses toward his goal.

- **West Virginia Income Maintenance Manual Section 13.9 SANCTIONS** states 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.

A. 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 cash assistance. The amount of the check reduction is a fixed amount and is determined as follows:

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3rd Offense an all subsequent offenses = Ineligibility for cash assistance for 6 months or until compliance, whichever is longer.

- **West Virginia Income Maintenance Manual Section 13.10 GOOD CAUSE FOR FAILURE TO PARTICIPATE** states:

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 is issued...

NOTE: A good cause determination is not required when the client is exempt from participation.

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

– **West Virginia Income Maintenance Manual Section 24.4 LOCAL OFFICE RESPONSIBILITIES IN THE WORK PROGRAM ASPECT OF WV WORKS** states:

In addition to the responsibilities contained in other chapters of this Manual, the Worker has responsibilities related to the work program aspect of WV WORKS.

The Worker must assist the client in all reasonable ways to achieve self-sufficiency. To accomplish this, the Worker must assess the client's knowledge and skills, work with the client and make informed recommendations about courses of action appropriate for each individual to develop a plan that is expected to lead to self-sufficiency. In addition, he must enter into an agreement with the client concerning his involvement in the process of becoming self-sufficient, monitor the client's progress to determine changing needs and the need for support service payments and take appropriate follow-up action based on the client's actions.

The eligibility requirement of the negotiated agreement, the Personal Responsibility Contract, is detailed in Chapter 1. Other requirements, particularly those dealing with the client's continuing eligibility, are found throughout this Manual. Chapter 13 contains other information about the eligibility aspect of the work requirements. The following sections in this Chapter are devoted to work activities and follow-up actions and contain information necessary for the Worker to assist the client in becoming self-sufficient and in developing opportunities for him.

IX. DECISION

The Department did not provide a Timesheet or Good Cause Letter to verify Mr. [REDACTED] was not in compliance with his Personal Responsibility Contract. In addition, Mr. [REDACTED] P R C did not reflect when timesheets are to be submitted to the Department.

It is the decision of this State Hearing Officer, to REVERSE the action of the Department to impose a WV WORKS Sanction. The [REDACTED] will be issued an auxiliary payment for May and June, 2004 and be opened effective July, 2004.

X. RIGHT OF APPEAL

See Attachment.

XI. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.