



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street West  
Charleston, WV 25313**

**Joe Manchin III  
Governor**

**Martha Yeager Walker  
Secretary**

August 2, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 16, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to impose a WEST VIRGINIA WORKS Sanction.

In arriving at a decision, the State Hearings 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 is based on current policy and regulations. Some of these regulations state as follows:

When a member of the AG does not comply with requirements found on his PRC, a sanction must be imposed unless the Worker determines that good cause exists. (WV Income Maintenance Manual Section 13.9 – SANCTIONS).

The information submitted at your hearing revealed: You failed to comply with terms and conditions of your Personal Responsibility Contracts

It is the decision of the State Hearings Officer to UPHOLD the PROPOSAL of the Department to impose the necessary sanction.

Sincerely,

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

cc: State Board of Review  
Ms. Debra Vazquez, Family Support Specialist

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

\_\_\_\_\_

**Claimant,**

**v.**

**Action Number: 06-BOR-1507**

**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 August 2, 2006 for Ms. \_\_\_\_\_. 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 May 16, 2006 on a timely appeal filed March 24, 2006.

It should be noted here that the Claimant was receiving benefits at the time of the hearing. A pre-hearing conference was held between the parties prior to the fair hearing, and Ms. \_\_\_\_\_ did not have legal representation.

**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 & 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 dependence on public programs by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

### **III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
Debra Vazquez, Family Support Specialist – \_\_\_\_\_ District DHHR Office

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. QUESTIONS TO BE DECIDED:**

The question(s) to be decided is: Did Ms. \_\_\_\_\_ have good cause for failing to participate in the WEST VIRGINIA WORKS Program?

### **V. APPLICABLE POLICY:**

WV Income Maintenance Manual Section 13.9 – SANCTIONS and; WV Income Maintenance Manual Section 13.10 - Good Cause for Failure to Participate for WV WORKS.

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

#### **Department's Exhibits:**

- D-1 PRC dated 11/22/05
- D-2 SPOKES Referral Form dated 11/22/05
- D-3 12/05 SPOKES Timesheet
- D-4 01/06 SPOKES Timesheet
- D-5 Letter from \_\_\_\_\_ re: Childcare
- D-6 02/06 SPOKES Timesheet
- D-7 SPOKES Attendance Letter dated 02/09/06
- D-8 SPOKES Attendance Letter dated 02/17/06
- D-9 BIRTH TO THREE Note dated 02/17/06 re: Daycare
- D-10 Connect Referral dated 03/09/06
- D-11 SPOKES Attendance Letter dated 03/17/06
- D-12 PRC Updated 03/24/06
- D-13 Letter from \_\_\_\_\_ re: Accounting/Data Processing Class dated 03/29/06
- D-14 SPOKES Attendance Letter dated 03/31/06
- D-15 Case Comments

#### **Claimants' Exhibits:**

- C-1 Hearing Summary

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

1. The issue in this particular matter is the failure of the Claimant to comply with the terms of her Personal Responsibility Contracts (PRC), dated November 22, 2005 AND March 24, 2006, respectively (D-1 & 12). As a condition of the PRC's, Ms. \_\_\_\_\_ was

required to participate in SPOKES Orientations, and follow-up by attending classes 20 hours per week (80 hours per month) (D-2). Neither child care nor transportation was an obstacle for Ms. \_\_\_\_\_ to participate in the assigned activity. Ms. \_\_\_\_\_ agreed to participate in the assigned activities by signing the PRC.

2. The December 2005 SPOKES Timesheet indicates Ms. \_\_\_\_\_ only attended four days of the assignment (D-3), with payment for travel. Ms. \_\_\_\_\_ later notified Ms. Debra Vazquez for assistance with travel. The Department issued a \$40.00 Flash Pass through the KRT. Ms. \_\_\_\_\_ was advised that when the timesheet was submitted, the travel expense would be deducted from the Flash Pass.

3. The January 2006 SPOKES Timesheet indicates Ms. \_\_\_\_\_ only attended six days of the assignment (D-4).

4. Ms. \_\_\_\_\_ sent a letter to the Department dated February 13, 2006, stating her mother was providing child care (D-5). The Department issued an appointment letter on February 15, 2006 to update Ms. \_\_\_\_\_'s PRC. Ms. \_\_\_\_\_ did not attend the scheduled appointment. A 3<sup>rd</sup> West Virginia Works Sanction was applied, with a good cause meeting scheduled for March 9, 2006.

5. The February 2006 SPOKES Timesheet indicates Ms. \_\_\_\_\_ only attended six days during the month (D-6). The Department received attendance letters from SPOKES dated February 9, 2006 and February 17, 2006, respectively to verify the timesheet (D-7 & 8).

6. The WV BIRTH TO THREE Office sent a message to the Department stating daycare was being provided for Ms. \_\_\_\_\_ at \_\_\_\_\_ (D-9).

7. Ms. \_\_\_\_\_ attended the good cause appointment and stated her reason for non-cooperation was due to the lack of day care. A referral was given to Connect (D-10). At the request of Ms. \_\_\_\_\_, a pre-hearing conference was held with the Family Support Supervisor who upheld the Workers actions.

8. The attendance letter from SPOKES dated March 17, 2006 indicates Ms. \_\_\_\_\_ plans to re-enroll (D-11).

9. Ms. \_\_\_\_\_'s PRC was updated on March 24, 2006. One of the requirements was to Report to SPOKES class at Job Service and Complete 20 hours per week in SPOKES class. Ms. \_\_\_\_\_ again agreed to participate in the assigned activities by signing the PRC (D-12).

10. Ms. \_\_\_\_\_ submitted a copy of an acceptance letter to the Department, from \_\_\_\_\_ dated March 29, 2006. Ms. \_\_\_\_\_ was accepted into the Spring Quarter of the Master Certificate in Accounting/Data Processing 4 – quarter program (D-13). This was not an approved activity on the PRC updated March 24, 2006.

11. The attendance letter from SPOKES dated March 31, 2006 indicates Ms. \_\_\_\_\_ did not attend classes during the month of March 2006 (D-14).

12. **WV Income Maintenance Manual Section 13.9 - SANCTIONS:**

When a member of the AG 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

**NOTE:** 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.

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 or until compliance, whichever is later.

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 predetermined number of months, regardless of case status.

#### A. Concurrent Sanctions

When an additional offense for the same or a different requirement occurs during a sanction period, the next level of sanction is imposed, after proper notification. The client must also be given the opportunity to establish good cause, regardless of the length of time remaining for the sanction that is already in effect. Sanctions may, therefore, run concurrently. When 2 or more offenses, by the same individual or by different individuals in the same AG, occur prior to the worker's having mailed the advance notice to the client, it is treated as if only one offense has occurred. Even though all offenses must be addressed in the client notification, only one sanction is imposed. However, if an additional offense, by the same individual or by a different individual(s), occurs after the Worker has mailed the client notification of the preceding offense, an additional sanction may be imposed after proper notification and the opportunity to establish good cause.

### **13. WV Income Maintenance Manual Section 13.10 - Good Cause for Failure to Participate for WV WORKS:**

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 requirement and/or adhere to his PRC 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. When the Worker discovers the failure or refusal, a notice of adverse action must be issued.

**NOTE:** A good cause determination is not required when the client is exempt from participation. See Section 13.8 for exemptions.

**NOTE:** To avoid imposition of a sanction due to good cause, the good cause must be established during the advance notice period. See item 13.8, A. 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 attendance in school, training or an institution of higher learning. College is defined as a 2- or 4-year undergraduate degree program.
- A single parent can prove that appropriate child care is unavailable for his child, age 6 or younger.
- He is required to appear in court or for jury duty.
- He is experiencing a family crisis such as, but not limited to:
  - 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 the specific activity are not met. See items 24.5 - 24.13 for minimum requirements. If none are listed for the activity, the Worker has the discretion to determine if the activity placed unsuitable requirements on the client.
- 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. However, once a sanction has been imposed, it cannot be stopped, until the appropriate time has elapsed, or the appropriate action is taken.

- A requirement of the Office of Social Services precludes participation for a specified period of time.
- He refuses to accept surgery which would eliminate or significantly improve his condition, even if the refusal precludes participation.

He would be required to travel more than one hour round trip to participate, unless it can be shown that local community travel standards exceed the one-hour limitation.

14. Ms. \_\_\_\_\_ did not have Good Cause for not attending the SPOKES classes, after signing the Personal Responsibility Contracts on November 22, 2005 and March 24, 2006, respectively.

#### **VIII. CONCLUSIONS OF LAW:**

1) WV Income Maintenance Manual Section 13.9 – SANCTIONS states in part:

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

2) Ms. \_\_\_\_\_ did not have Good Cause for not attending the SPOKES classes, after signing the Personal Responsibility Contracts on November 22, 2005 and March 24, 2006, respectively.

#### **IX. DECISION:**

It is the decision of this State Hearing Officer to UPHOLD the PROPOSAL of the Department in this particular matter.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2nd Day of August 2006.**

**Ray B. Woods, Jr., M.L.S.**  
**State Hearing Officer**