



**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 _____
Secretary

June 1, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 25, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to impose a 3rd level 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 Program is based on current policy and regulations. Some of these regulations state as follows: 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. (West Virginia Income Maintenance Manual Section 1.25 T PERSONAL RESPONSIBILITY CONTRACT (PRC)).

The information submitted at your hearing revealed: You failed to comply with the terms of your Personal Responsibility Contract.

It is the decision of the State Hearings Officer to uphold the proposal of the Department to impose the sanction.

Sincerely,

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

cc: State Board of Review
Richard Riley, Family Support Specialist

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

_____,
Claimant,

v.

Action Number: 07-BOR-860

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

Respondent.

DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on June 1, 2007 for Mr. _____. 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 25, 2007 on a timely appeal filed February 26, 2007.

It should be noted here that the Claimant's WV WORKS Benefits were continued during the fair hearing process. A pre-hearing conference was held between the parties prior to the fair hearing; and the Claimant did not have an Attorney working with him in this particular matter.

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

_____, Mother

Richard Riley, Family Support Specialist – [REDACTED] District DHHR

Shannon McKay, Family Support Supervisor - [REDACTED] District 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. QUESTIONS TO BE DECIDED:

The question(s) to be decided is: Did the Claimant comply with the requirements of his Personal Responsibility Contract?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 1.25 T PERSONAL RESPONSIBILITY CONTRACT (PRC); Chapter 13.9 (A) DEFINITION OF A SANCTION; and 24.3 (A) (1) One Parent Families.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary Outline
- D-2 WVIMM Policy 13.9 WV WORKS SANCTIONS
- D-3 Individual Case Comments dated 1/08/07 – 04/26/07
- D-4 Personal Responsibility Contract (PRC) Part 1 & 2 dated 01/08/07
- D-5 Referral for Training dated 01/08/07
- D-6 WVIMM Policy 24.3 (A) (1) One Parent Families
- D-7 Time Sheet for 01/07

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant came to the office and applied for WV WORKS, Food Stamps and Medicaid Benefits on January 2, 2007. The Food Stamps and Medicaid were approved on January 2, 2007. The Claimant was required and attended group orientation on January 5, 2007. His actual WV WORKS application date was January 8, 2007, with a protected application date of January 2, 2007 (Exhibits D-1 & 3).

- 2) A PRC was completed on January 8, 2007 with the following goals: Cooperate with WV WORKS; Cooperate with BCSE (Bureau of Child Support Enforcement); Participate in Excel class; and take TABE test (Exhibit D-4).
- 3) The Claimant was required to attend the Excel class on January 16, 2007. He could not attend due to his child's illness. He began on January 17, 2007 (Exhibit D-5).
- 4) The time sheet from the Excel class indicates the Claimant attended seven (7) hours on January 17, 2007, three (3) hours on January 18th and seven (7) hours on January 19th. The Site Supervisor wrote on the time sheet that the Claimant never returned to class after the 19th (Exhibit D-7).
- 5) The Claimant never contacted the Family Support Specialist regarding his attendance.
- 6) A Good Cause appointment was scheduled for February 9, 2007. The Claimant did not attend or call the Family Support Specialist regarding the scheduled appointment.
- 7) A 3rd WV WORKS Sanction was applied to the case. This would require case closure for three months effective March 2007.
- 8) The Claimant came to the office on February 26, 2007 to discuss the sanction. The assigned Family Support Specialist was not present and the Claimant was seen by another Worker. The Worker determined Good Cause did not exist and the sanction was not lifted. The Claimant requested a Fair Hearing with continued benefits.
- 9) At the hearing, the Claimant and his mother alleged that the Claimant had severe health problems that prevented his participation in the Excel class.
- 10) Testimony from the Family Support Specialist indicated there was never any documentation provided to substantiate a waiver of participation. This is credible testimony.
- 11) Chapter 13.9 of the WV Income Maintenance Manual states in part (Exhibits D-2):
When a member of the AG does not comply with requirements on his PRC, a sanction must be imposed unless the Worker determines that good cause exists. 3rd offense and all subsequent offenses results in ineligibility for cash assistance for 3 months or until compliance, whichever is later.
- 12) Chapter 1.25 T of the WV Income Maintenance Manual states in part:

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.
- 13) Chapter 24.3 (A) (1) One Parent Families states in part (Exhibit D-6): The minimum hours of participation are 30 hours / week average.

VIII. CONCLUSIONS OF LAW:

- 1) Chapter 13.9 of the WV Income Maintenance Manual states in part:

When a member of the AG does not comply with requirements on his PRC, a sanction must be imposed unless the Worker determines that good cause exists. 3rd offense and all subsequent offenses results in ineligibility for cash assistance for 3 months or until compliance, whichever is later.

- 2) Chapter 1.25 T of the WV Income Maintenance Manual states in part:

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. A 3rd Offense and All Subsequent Offenses = Ineligibility for cash assistance for 3 months or until compliance, whichever is later.

- 3) Chapter 24.3 (A) (1) One Parent Families states in part: The minimum hours of participation are 30 hours / week average.

- 4) The Claimant did not provide Good Cause for failing to comply with the terms of his PRC, and is not in compliance with the West Virginia Works Policy. There was no available medical documentation that the Claimant could not fulfill the minimum requirements for a One Parent Family.

IX. DECISION:

It is the decision of this State Hearing Officer to UPHOLD the PROPOSAL of the Department to impose a West Virginia Works sanction for non compliance with the PRC.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 1st Day of June, 2007

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