



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

July 6, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held June 23, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to impose a third level WV WORKS sanction against you.

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 WV WORKS program is based on current policy and regulations. These regulations provide that when a member of the benefit group does not comply with the requirements found on his or her Personal Responsibility Contract (PRC), a sanction must be imposed unless it is determined that good cause exists. For a third offense, the sanction results in an ineligibility for cash assistance for a three month period (WV Income Maintenance Manual § 13.9).

The information submitted at your hearing revealed that failed to participate in the work activity as listed on the PRC or provide good cause for your failure to do so.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to impose a third sanction against your WV WORKS benefits.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Beverly Ballengee, Family Support Supervisor

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

**IN RE:   -----,**

**Claimant,**

**v.**

**ACTION NO.: 11-BOR-1100**

**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 June 23, 2011 for -----. 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 a timely appeal, filed April 27, 2011.

**II.    PROGRAM PURPOSE:**

The program entitled WV WORKS is administered by the West Virginia Department of Health and Human Resources.

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited program that emphasizes employment and personal responsibility. 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 assistance to emphasize employment and personal responsibility.

**III.   PARTICIPANTS:**

-----, Claimant

-----, Family Support Specialist

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department's decision to impose a third level sanction against Claimant's WV WORKS benefits was correct.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual §13.9

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

**Department's Exhibits:**

- D-1 Personal Responsibility Contract dated February 18, 2011
- D-2 Sanction Notification Letter dated March 18, 2011
- D-3 Case Comments (CMCC) from RAPIDS Computer System
- D-4 WV Income Maintenance Manual § 9.21 and 13.9
- D-5 Reception Log from E-RAPIDS Computer System dated March 29, 2011

**VII. FINDINGS OF FACT:**

- 1) Claimant applied for WV WORKS in January 2011. A Personal Responsibility Contract (PRC) was completed which reads in pertinent part (D-1):

Activity/Assignment

Send time sheets in monthly  
Document all hrs for medical visits & SSA  
Take TABE test on 3/14/2011

- 2) -----, Claimant's caseworker, testified that Claimant did not take the TABE test on March 14, 2011 as required on her PRC. A third sanction was proposed on March 17, 2011 with a good cause appointment scheduled for March 31, 2011 (D-2). ----- stated Claimant called on March 21, 2011 asking that her good cause appointment be rescheduled to March 29, 2011. Claimant advised ----- that she had called another caseworker, -----and requested her TABE test be rescheduled (D-3).

----- testified that she was not at work on March 29, 2011 and Claimant was assigned to see another caseworker, -----for the good cause hearing (D-5). ----- stated Claimant left the office before being seen by a caseworker for the good cause appointment and a third level sanction was imposed (D-3). ----- stated she consulted -----regarding Claimant's TABE test rescheduling request and he denied talking with her.

- 3) Claimant testified that she did not have transportation to take her TABE test as scheduled on March 14, 2011 so she called her then caseworker, ----- . Claimant stated she spoke with -----prior to the date of the test and also spoke with caseworker ----- about rescheduling her TABE test and was told to come in on March 29, 2011 to take the test at the local office. Claimant stated when she came to the local office on March 29, 2011 for her good cause appointment, she waited two (2) hours to be seen. Claimant finally left after waiting for hours and when she learned that TABE testing was not conducted at the local office. Claimant stated she came to the local office on April 11, 2011 for a pre-hearing conference, waited several hours again and left without being seen.
- 4) WV Income Maintenance Manual §13.9 states:

Once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.

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.

The client must also be given the opportunity to establish Good Cause.

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

- 1) Policy holds that when an individual fails to comply with the requirements as listed on the Personal Responsibility Contract, a sanction is imposed unless good cause exists. Once a sanction is imposed, it cannot be stopped until the appropriate time period has elapsed.
- 2) Claimant was required to take the TABE test on March 14, 2011 as indicated on her PRC. Claimant failed to take the TABE test as scheduled and failed to participate in her good cause appointment.

- 3) Claimant alleges that she notified a caseworker at the local office that she would be unable to take the TABE test prior to the scheduled date. Claimant was unable to produce evidence that she notified any caseworker that she did not have transportation to the testing site prior to the date of the test. The documentation presented cited contact with Claimant and her caseworker only after she was notified of the proposed sanction and not prior to.
- 4) The Department correctly imposed a sanction against Claimant's WV WORKS benefits failure to comply with her work activity as found on the Personal Responsibility Contract.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to impose a third sanction against Claimant's WV WORKS benefits.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 6<sup>th</sup> day of July 2011.**

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**Kristi Logan  
State Hearing Officer**