



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

Earl Ray Tomblin
Governor

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

July 14, 2011

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 sanction against your WV WORKS benefits.

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 (West Virginia Income Maintenance Manual § 13.9).

The information submitted at your hearing revealed that you failed to comply with the requirements of your Personal Responsibility Contract without good cause.

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-1122

**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 18, 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

-----, 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 sanction against Claimant's WV WORKS benefits was correct.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §13.9

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Appointment Letter and Hearing/Grievance Request Notification
- D-2 Notification Letter/Good Cause Letter dated April 14, 2011
- D-3 Personal Responsibility Contract dated April 4, 2011
- D-4 Case Comments (CMCC) from RAPIDS Computer System

VII. FINDINGS OF FACT:

- 1) Claimant completed a review for his WV WORKS benefits on April 4, 2011. Claimant had previously been assigned to GED classes as his work activity. An updated Personal Responsibility Contract (PRC) was completed on April 4, 2011 which read in pertinent part (D-3):

Assignment/Activity

GED - Complete
Comm. Serv. of 85 hrs. mo. – animal shelter
Come in Monday 4-11-11 with site
Appear to all DHHR appts.

- 2) -----, Claimant's caseworker testified that Claimant was given his contract for community service with the local animal shelter on April 4, 2011 to have completed and returned to her on April 11, 2011. -----stated Claimant was to begin his community service activity on April 12, 2011. -----stated she spoke with Claimant on April 11, 2011 and was advised that he lost his community service contract. -----stated she left another copy at the receptionist's desk for Claimant to pick up. -----stated Claimant did not return his community service contract and a third level sanction was proposed on

April 13, 2011. Claimant's good cause appointment was scheduled for April 18, 2011 (D-2 and D-4).

- 3) -----testified that Claimant failed to attend his good cause appointment and the sanction was imposed on April 18, 2011, terminating Claimant's WV WORKS benefits were effective May 2010. -----stated Claimant had failed to provide her with directions to the place where he had been living and she could not conduct a home visit prior to the imposition of the third sanction (D-4).
- 4) Claimant testified that he lost his community service contract but he had been working at [REDACTED] Recycling. Claimant stated when he learned that he had been sanctioned, he quit his activity at the recycling center. Claimant stated he received a transportation check so his worker must have known he was participating in his activity. Claimant stated he and his children were temporarily staying with someone and did not feel comfortable giving directions to the home for a home visit. Claimant stated he has three (3) children and needs assistance. Claimant said he had never missed a good cause appointment before.
- 5) West Virginia Income Maintenance Manual §13.9 states:

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.

1st Offense - 1/3 reduction in the check amount for 3 months.

2nd Offense - 2/3 reduction in the check amount for 3 months.

3rd 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 failure to comply with the requirements listed on the Personal Responsibility Contract results in the imposition of a sanction. The WV WORKS individual must be given the opportunity to present good cause when a sanction is proposed.
- 2) Claimant failed to return his community service contract as required on his Personal Responsibility Contract. Claimant was given the opportunity to present good cause for failure to adhering to this requirement on April 18, 2011. Claimant failed to attend the good cause appointment and offered no explanation as to why he did not attend.
- 3) The Department correctly imposed a sanction against Claimant's WV WORKS benefits for failure to comply with his 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 14th day of July 2011.

Kristi Logan
State Hearing Officer