



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Earl Ray Tomblin  
Governor

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

August 11, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 9, 2011. Your hearing request was based on the action of the Department of Health and Human Resources to reduce your WV WORKS benefits based on the application of a first and second-level 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 for the WV WORKS Program is based on current policy and regulations. Some of these regulations state 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 first offense, the sanction consists of a 1/3 reduction in the benefit amount for 3 months and a second-level sanction results in a 2/3 reduction in the benefit amount for 3 months. (West Virginia Income Maintenance Manual § 13.9)

Information submitted at your hearing demonstrates that you failed to comply with the requirements of your Personal Responsibility Contract (PRC).

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to reduce your cash assistance based on the imposition of a first and second-level sanction in your WV WORKS case.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review  
Pam Everly, FSS, DHHR

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

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**Claimant,**

**v.**

**Action Number: 11-BOR-1349**

**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 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 hearing was convened on August 9, 2011, on a timely appeal filed June 14, 2011.

**II. PROGRAM PURPOSE:**

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

Pam Everly, Family Support Specialist (FSS), WVDHHR

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department of Health and Human Resources was correct in its action to reduce the Claimant's WV WORKS cash assistance benefits based on the imposition of a first and second-level sanction.

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

West Virginia Income Maintenance Manual, Chapter 1.25, 13.9, 13.10 & 24.4

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

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

- DHS-1 Correspondence (ES-6) addressed to the Claimant dated 4/18/11
- DHS-2 Notice of a scheduled appointment dated 4/19/11
- DHS-3 Notice of Decision dated 4/28/11
- DHS-4 Notice of Decision dated 5/6/11
- DHS-5 Notice of scheduled appointment dated 5/17/11
- DHS-6 Hearing/Grievance Request Notification (IG-BR-29)
- DHS-7 West Virginia Income Maintenance Manual, Chapter 13.9
- DHS-8 WV WORKS Personal Responsibility Contract (PRC) – Part 1 of 2 and Part 2 of 2

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

- 1) On April 18, 2011, written correspondence (DHS-1) was sent to the Claimant requiring that she sign the accompanying Assignment of Support Rights and Absent Parent (AP-1) forms and return them to the Department of Health and Human Resources, hereinafter Department, by April 28, 2011. This correspondence goes on to note that failure to comply will result in a loss of your Medicaid and a WV WORKS sanction being placed in your case. The Department's representative, Pam Everly, testified that these forms were sent to the Claimant because she reported the birth of her third child on April 14, 2011 and the father is not in the home.
- 2) On April 19, 2011, the Claimant was provided notice of a scheduled appointment (DHS-2) on April 26, 2011 and advised that – "If you fail/refuse to cooperate/participate with WV WORKS your public assistance benefits may be affected. Your benefits will be reduced until you agree to cooperate. WV WORKS Staff can tell you how to eliminate a sanction."
- 3) On or about April 28, 2011, the Claimant was advised via a Notice of Decision (DHS-3) that her WV WORKS benefits will reduce effective June 1, 2011 (\$384 to \$257) due to a first sanction for failing to comply with the requirements of the Personal Responsibility Contract (PRC) and/or the Self-Sufficiency Plan (SSP). The Department noted that this sanction was applied for failing to cooperate with the Bureau for Child Support Enforcement, as requested in DHS-1.

This notice goes on to advise the Claimant that a Good Cause interview is scheduled on May 5, 2011 and if this appointment is not kept, the sanction will be applied to her benefits. The Department noted that the Claimant failed to appear for the scheduled Good Cause interview and the first-level sanction was applied to the Claimant's WV WORKS benefits.

- 4) On or about May 6, 2011, the Claimant was notified via a Notice of Decision (DHS-4) that a second-level sanction is being applied to her case effective June 1, 2011 for failing to comply with the requirements of her PRC and or SSP. As a result, her WV WORKS cash assistance will reduce from \$384 per month to \$129. The Department noted that this sanction was applied due to the Claimant failing to appear for her April 26, 2011 scheduled appointment. This notice goes on to advise the Claimant that a Good Cause interview was scheduled on May 12, 2011 and if the appointment is not kept, the sanction will be applied to her benefits. The Department noted that the Claimant failed to appear for the scheduled Good Cause interview and the second-level sanction was applied to her case.
- 5) The Department noted that the Claimant appeared at the Department for a Medicaid and SNAP review on May 26, 2011 (DHS-5) and that she was verbally advised of the first and second-level sanctions placed in her WV WORKS case during this meeting. The Department noted that all of the Claimant's mail has been sent to the same location - an address provided and confirmed by the Claimant. Moreover, the Department's mail is not forwarded, and therefore, returned by the U.S. Postal Service if it is undeliverable as addressed. The Department noted that none of the Claimant's mail had been returned.
- 6) The Department submitted DHS-8, the Claimant's current Personal Responsibility Contract (PRC), Part 1 of 2 and Part 2 of 2. The PRC indicates the Claimant is required to attend any meetings or appointments related to eligibility for cash assistance and to cooperate with, and assist, in the collection of child support for her children.
- 7) The Claimant alleged that she did not receive the correspondence requesting that the AP-1s be signed (DHS-1) or the notice advising of the scheduled appointment on April 26, 2011 (DHS-2). However, the Claimant acknowledged receiving the adverse notice letters (DHS-3 and DHS-4) and recognized that she missed the two Good Cause appointments. The Claimant indicated that she has since moved in with her mother, but all of the correspondence sent by the Department was mailed to the correct address in April and May 2011. The Claimant reported that she had no knowledge of problems with receiving her mail while at that address.
- 8) Policy found in Chapter 1.25, T, of the West Virginia Income Maintenance Manual provides that the PRC form (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the WV WORKS AG and the Worker. Failure, without good cause, to adhere to the responsibilities contained in Part 1 of the PRC results in imposition of a sanction against the benefit group. Refusal or other failure, without good cause, to adhere to the self-sufficiency plan (Part 2 of the PRC) results in imposition of a sanction against the benefit group.

- 9) West Virginia Income Maintenance Manual, Chapter 13.9:  
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.  
Once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.
- 10) West Virginia Income Maintenance Manual, Chapter 13.9.B., states that 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 occurs 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.
- 11) The West Virginia Income Maintenance Manual, Chapter 13.10, sets forth good cause criteria for failure to meet work requirements or adhere to the Personal Responsibility Contract. This policy goes on to state that the worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his ability, understands the requirements, and the sanction process. The Worker has considerable discretion in imposing a sanction.

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

- 1) Policy states that when a member of the benefit group does not comply with the requirements found on his/her PRC, a sanction must be imposed unless the worker determines that good cause exists. A first-level sanction results in a 1/3 reduction in cash assistance for three months and a second-level sanction results in a 2/3 reduction in cash assistance for three months. 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. While there are specific circumstances noted in policy for which good cause can be granted, policy goes on to state that the worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his ability, understands the requirements, and the sanction process. The worker has considerable discretion in imposing a sanction. Policy goes on to note once a sanction has been imposed, it cannot be stopped until the appropriate time has elapsed.
- 2) The Claimant's PRC clearly states she is required to cooperate with efforts to collect child support and keep all appointments related to WV WORKS eligibility. While the Claimant alleges she neither received the notice requiring her to complete the assignment of rights (AP-1s) for child support, nor the notice advising of the scheduled appointment, the Claimant admitted to having no problems with receiving her mail at that address. Furthermore,

testimony presented by the Department's representative confirms that none of the correspondence sent to the Claimant was returned by the Post Office. Evidence indicates that the Claimant received the correspondence from the Department and failed to comply. Perhaps even more telling is the fact that the Claimant acknowledged she was aware of the scheduled Good Cause interviews, but elected not to attend. By failing to attend the Good Cause interviews, the Claimant further demonstrated her unwillingness to comply with WV WORKS eligibility requirements.

- 3) The Department's decision to impose a first and second-level sanction in the Claimant's WV WORKS case is, therefore, affirmed.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's action to reduce the Claimant's WV WORKS benefits based on the imposition of a first and second-level sanction.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of August 2011.**

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**Thomas E. Arnett  
State Hearing Officer**