



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Earl Ray Tomblin  
Governor

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

November 3, 2011

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 26, 2011. Your hearing request was based on the Department of Health and Human Resources' proposed termination of your WV WORKS benefits due to a 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 Assistance Group or non-recipient Work-Eligible Individual does not comply with requirements found on his Personal Responsibility Contract (PRC) or Self-Sufficiency Plan (SSP), a sanction must be imposed unless the Worker determines that good cause exists (West Virginia Income Maintenance Manual, Chapter 13.9).

The information submitted at your hearing revealed that you did not comply with your SSP, and failed to establish good cause.

It is the decision of the State Hearing Officer to **uphold** the Department's termination of your WV WORKS benefits due to a sanction.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Ashley Elam, Family Support Specialist

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

**IN RE:**        -----,

**Claimant,**

**v.**

**ACTION NO.: 11-BOR-1728**

**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 November 3, 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 October 26, 2011 on a timely appeal, filed August 17, 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  
Eric Dotson, Department representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

All persons offering testimony were placed under oath.

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

The question to be decided is whether or not the Department was correct to impose a WV WORKS sanction terminating benefits to the Claimant.

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

West Virginia Income Maintenance Manual, Chapters 1.25.T; 13.9; 13.10; 24.4.D

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

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

- D-1 Hearing Summary
- D-2 Sanction notification dated July 28, 2011
- D-3 Self-Sufficiency Plan (SSP) dated June 6, 2011
- D-4 Participant Time Sheet for June, 2011
- D-5 West Virginia Income Maintenance Manual, Chapter 24.3

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

- 1) Eric Dotson, a Family Support Supervisor for the Department, testified that the Department notified the Claimant (Exhibit D-2) on or about July 28, 2011, that her WV WORKS benefits would be closed due to a sanction. The notice states, in pertinent part:

ACTION: Your WV WORKS/WVEAP benefits will stop. You will not receive this benefit after AUGUST 2011.

REASON: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC) and/or the Self Sufficiency Plan (SSP).

The letter additionally provided the specific sanction reason as "FAILING TO ATTEND AN ASSIGNED ACTIVITY" and scheduled an appointment to allow the Claimant to provide good cause for the PRC violation. The Claimant failed to appear for this good cause appointment and the Department terminated the Claimant's WV WORKS benefits.

- 2) The Self-Sufficiency Plan (SSP) (Exhibit D-3) was signed by the Claimant and -----on June 6, 2011. This document lists required assignments or activities, and includes the requirement stating, "MAINTAIN 85 HRS PER MONTH ACTIVITY."

- 3) Mr. Dotson testified that -----received and reviewed a Participant Time Sheet (Exhibit D-4) from the Claimant's assigned activity for June, 2011. This time sheet lists 20 hours completed of the 85 required on her SSP. Mr. Dotson testified that -----granted good cause for the missed time in June, 2011, due to the Claimant's illness.
- 4) Mr. Dotson testified that the Claimant contacted -----in July, 2011, to tell her that she was still not attending her activity for medical reasons. -----responded by requesting verification of the Claimant's medical condition and her need for exemption. When this verification was not received, no good cause was granted for the unmet participation hours in July, 2011, and the Claimant's WV WORKS case was sanctioned.
- 5) The Claimant testified that -----told her she would not be sanctioned if she enrolled in classes, as specified on her SSP, prior to August 30, 2011. She has enrolled for classes, but her case was still sanctioned. Mr. Dotson testified that what the Claimant is referring to is an entry in the "GOALS" section of the SSP stating, "ENROLL IN FORENSIC CLASSES AT MOUNTWEST," and not from the "ASSIGNMENT/ACTIVITY" section. Upon questioning from this Hearing Officer, the Claimant testified that she did not sign another SSP that exclusively required enrollment in these classes, and limited potential sanctions to that one assignment.
- 6) The West Virginia Income Maintenance Manual, Chapter 13.9, states, in pertinent part:

### **13.9 WV WORKS SANCTIONS**

When a member of the AG or non-recipient Work-Eligible Individual does not comply with requirements found on his PRC or SSP, a sanction must be imposed unless the Worker determines that good cause exists. Information about development of the SSP is found in Chapter 24. Information about the PRC and SSP as an eligibility requirement is found in Chapter 1.

**NOTE:** When the person whose actions cause a sanction to be imposed becomes an SSI recipient prior to imposition of the sanction, no sanction is imposed. In addition, the offense is not counted when determining the level of subsequent sanctions. If the family has already been sanctioned when the offender becomes an SSI recipient, the sanction is lifted as soon as possible considering RAPIDS deadlines. The partial sanction already served counts when determining the level of the subsequent sanctions.

**NOTE:** If a disabled client chooses to participate, no sanction is imposed for failing to meet the work requirements if the Worker or Supervisor determines the participant failed to meet the SSP requirements due to his

disability. WV WORKS participants who have a documented disability must be placed in the AD component in Work Programs in addition to other component codes.

#### A. DEFINITION OF SANCTION

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

Sanctions are applied in the form of benefit reductions and, for the 3rd or subsequent offense, termination of benefits. The amount of the benefit reduction is a fixed amount and is determined as follows:

1st Offense = 1/3 reduction in the benefit amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months

2nd Offense = 2/3 reduction in the benefit 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 benefit amount the client would be eligible to receive, prior to recoupment; if it was not already reduced by 1/3.

3rd and All = Ineligibility for cash assistance for 3 months.  
Subsequent  
Offenses

- 7) The West Virginia Income Maintenance Manual, Chapter 13.10, discusses good cause as follows, in pertinent part:

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. The Worker may determine that the requirement was inappropriate based upon additional assessment. An appointment to update the PRC and place the individual in another component must be scheduled as soon as possible. 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.

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

- 1) Policy for the WV WORKS program requires cooperation with the Personal Responsibility Contract (PRC) or Self-Sufficiency Plan (SSP), unless good cause is established. The Claimant's SSP required participation in an activity for 85 hours per month. Evidence clearly shows that the Claimant participated for 20 hours in June, 2011, and that the Claimant continued to not participate in July, 2011. The Claimant failed to comply with a PRC/SSP requirement.
- 2) Policy for WV WORKS additionally requires sanctions against WV WORKS benefits when SSP non-compliance is without good cause. The Claimant did not appear for a good cause appointment. The Department granted good cause for the first month of unmet participation hours for medical reasons, but required verification in the second month; this verification was not provided. The Claimant only offered the contention that she was solely required to enroll in forensic classes, a requirement that she met. The Claimant's SSP lists numerous required activities, assignments, challenges, barriers and goals; in no way does this document limit the requirements to a single goal. The Claimant failed to establish good cause for SSP non-compliance. The Department was correct to apply a third-level sanction terminating the WV WORKS benefits of the Claimant.

## **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate the WV WORKS benefits of the Claimant.

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

See Attachment

## **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of November, 2011.**

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**Todd Thornton**  
**State Hearing Officer**