



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

Board of Review
P.O. Box 1736
Romney, WV 26757

**Earl Ray Tomblin
Governor**

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

December 12, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 8, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your WV WORKS cash assistance by applying a first 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 one-third reduction in the benefit amount for a period of three months. (West Virginia Income Maintenance Manual Chapter 13.9)

The information which was submitted at your hearing revealed that you did not present good cause for your failure to comply with the requirements of your Personal Responsibility Contract.

It is the decision of the State Hearing Officer to Uphold the action of the Department to implement a first sanction against your WV WORKS cash assistance and reduce your benefits by one-third for three months.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Megan Garland, Family Support Specialist

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-2246

**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 fair hearing was convened on a timely appeal, filed October 27, 2011.

It should be noted here that the Claimant's benefits under the WV WORKS program continue at the previous level of determination pending a decision from the State Hearing Officer.

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
Megan Garland, Family Support Specialist

Presiding at the hearing was Eric L. Phillips , State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its action to reduce the Claimant's WV WORKS cash assistance by implementing a first level sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 13.9

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Hearing Summary

D-2 Participant Time Sheet for September, 2011

VII. FINDINGS OF FACT:

- 1) The Claimant is a current recipient of WV WORKS cash assistance and participating with work participation requirements of the program with the [REDACTED] Technical Center.
- 2) Ms. Megan Garland, Family Support Specialist testified participants of WV WORKS are required to submit a time sheet, verifying their participation, no later than the fifth day of the following month. According to Ms. Garland, the Claimant was required to submit a time sheet, verifying participation hours for September 2011, no later than October 5, 2011.
- 3) Ms. Garland testified that the Claimant failed to submit the required time sheet by the deadline date and a first-level sanction was placed upon the Claimant's WV WORKS cash assistance on October 18, 2011. On October 28, 2011, a good cause hearing was completed with the Claimant, in which she reported that she submitted her time sheet in a "drop-off box" at the [REDACTED] County Department and Health and Human Resources lobby. Ms. Garland stated that [REDACTED] County Department of Health and Human Resources standard procedure involving all submitted documentation requires that all documentation submitted to the "drop-off box" be logged and documented with clerical staff. Ms. Garland stated that "drop-off box" log was researched and the Claimant's name did not appear on the log.
- 4) Ms. Garland testified that the Claimant provided a copy of the Participant Time Sheet (Exhibit D-2) on November 2, 2011, which notes "This time sheet must be submitted to the local DHHR office by the 5th day of the next month."

5) The Claimant maintained that she submitted the Participant Time Sheet by the required deadline date and indicated that she did not wait to personally submit the documentation due to the office being “busy and hectic.”

6) West Virginia Income Maintenance Manual § 1.25 documents in pertinent part:

The Personal Responsibility Contract (PRC) is a contract between each of the adult or emancipated minor members of the WV WORKS AG, or non-recipient Work-Eligible Individual(s), and the Worker, as the representative of the Department. Completion and signature of the PRC form is required prior to approving the WV WORKS AG.

Failure, without good cause, to adhere to the responsibilities or any task listed on the PRC after signature, results in imposition of a sanction against the AG.

7) 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.

8) West Virginia Income Maintenance Manual §13.10 states in pertinent part:

All mandatory Work-Eligible Individuals must be placed into a relevant and a current component for tracking and monitoring purposes on approval date. The participant must remain in that component whether or not they are working, cooperating, or sanctioned until either the case is closed or the Case Manager and participant agree to change the component. Not meeting participation requirements or being sanctioned are not reasons to disenroll the participant from their assigned component(s). Some reasons for granting good cause for temporarily not meeting participation requirements are life events or problems such as, but not limited to:

- The death of a spouse, parent, child, or stepchild.

- In accordance with the Family and Medical Leave Act (FMLA) of 1993, an acute, life threatening illness of a spouse, parent, or child that requires the client’s immediate attention. This does not include individuals who are exempt

from participation due to caring for a disabled family member as outlined in section 13.8.

- The minimum suitability standards for the specific activity are not met. See Sections 24.5 – 24.13 for minimum requirements. If none are listed for the activity, the Worker must determine if the activity placed unreasonable requirements on the client. Individuals granted good cause for this reason must be scheduled an appointment or home visit to review the situation and possible PRC update.

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.

- The parent, an included non-parent caretaker, or a non-recipient Work-Eligible Individual quits employment or fails to participate in his assigned activity due to enrollment and full-time attendance in school, training, or an institution of higher learning. The PRC must be updated and these individuals should be placed in the VT, AB, or CL components as soon as possible.

....

Failure or refusal to comply, without good cause, results in imposition of a sanction. When the Worker discovers the failure or refusal, a notice of adverse action must be issued. When a letter is mailed scheduling the good cause interview, the Worker must allow no less than 7 calendar days. This period begins the day following the date the letter is requested in RAPIDS, or the day following the date a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the client. If the appointment is scheduled for a date prior to the 7 calendar days, the participant and the Worker must agree on the appointment date. See Section 6.3, Items D and E, A Worker generated letter from RAPIDS or a manual letter, DFA-WVW-NL-1 is used.

VIII. CONCLUSIONS OF LAW:

- 1) Policy stipulates that 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. A penalty for a first-level sanction results in a one-third reduction of WV WORKS cash assistance for a three month period. Policy lists specific circumstances in which the recipient may be granted good cause for the infraction and the worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his or her ability, understands the requirements, and the sanction process. Policy notes that the worker has considerable discretion when imposing the sanction.

- 2) As a recipient of WV WORKS cash assistance, the Claimant was required to provide verification of her monthly participation hours to the Family Support Specialist. Testimony and evidence reveals that the Claimant was required to submit the required documentation to verify her participation hours by October 5, 2011. While the Claimant maintains she provided the required documentation by the deadline date, there was no evidence submitted to corroborate her testimony that she provided the documentation to the Department in a timely manner. Therefore, the Department's decision to implement a first-level sanction is affirmed.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to implement a first-level sanction against the Claimant's WV WORKS cash assistance.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of December, 2011.

Eric L. Phillips
State Hearing Officer