



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

May 2, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 30, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your WV WORKS benefits due to the imposition of a third sanction.

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 provide your caseworker with good cause failure to meet a requirement on your PRC.

It is the decision of the State Hearings Officer to **Uphold** the proposal 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: Erika Young, Chairman, Board of Review
Beverly Ballengee, Family Support Supervisor

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

-----,

Claimant,

v.

Action Number: 10-BOR-2328

**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 March 30, 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.

It should be noted here that the claimant's benefits under the WV WORKS program have continued pending a decision.

II. PROGRAM PURPOSE:

The Program entitled WV WORKS is administered by the West Virginia Department of Health & 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
George Mosko, Family Support Specialist

Presiding at the Hearing was Kristi Logan, 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's proposal to impose a third sanction against Claimant's WV WORKS benefits is correct.

V. APPLICABLE POLICY:

[Click here to enter text.](#)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Personal Responsibility Contract dated September 19, 2009
- D-2 Appointment Letter dated November 10, 2010
- D-3 Notification Letter dated November 17, 2010
- D-4 Hearing/Grievance Request Notification
- D-5 Hearing Appointment Letter
- D-6 WV Income Maintenance Manual § 1.25 and 13.9
- D-7 Department Summary

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant was receiving WV WORKS benefits and was placed in community service as her work activity. On November 10, 2010, the Department issued a letter to Claimant for an appointment on November 15, 2010 to be assigned in a new work activity (D-2).
- 2) Claimant failed to attend the appointment and a third level sanction was proposed on November 17, 2010. A good cause appointment letter was issued that date by the Department with her good cause appointment scheduled for November 29, 2010 (D-3).
- 3) Claimant missed the appointment on November 29, 2010 but came to the local office the next day to present her good cause for missing her assessment on November 15, 2010. George Mosko, Family Support Specialist, testified that as a requirement on her Personal Responsibility Contract (PRC), Claimant is required to keep all appointments with her caseworker (D-1). By missing a scheduled appointment, a third sanction was proposed against Claimant's WV WORKS benefits.

Mr. Mosko stated Claimant told her caseworker at the good cause appointment that she had been out of town and had not received the assessment letter. Mr. Mosko stated Claimant did not

verify that she had been out of town and that she had participated in her community service activity in ██████ County 21 days in November 2010. Mr. Mosko stated argued that if Claimant was able to participate in her activity that month, it was reasonable that she would have access to her mail (D-7).

- 4) Claimant testified that she left town around November 9, 2010 to visit with her father in ██████ WV. Claimant stated she visited for two (2) weeks and returned home around November 30, 2010. Claimant testified that she never received the assessment appointment letter, but received the good cause letter. She called her caseworker immediately and arranged to come to the local office the next day for the good cause appointment.

Claimant stated she did not realize she would be assigned a new caseworker or that she would be assigned to a new work activity. Claimant testified she did not know she would have an upcoming appointment and that she would need to stay in town and wait for the appointment letter. She continued in saying she often had problems with her mail at the apartment complex where she resided and that it was possible the assessment letter never made it to her.

Claimant stated she knew the importance of keeping appointments and that a sanction would close her benefits. Claimant testified that part of her community service for November 2010 was participating in her brother's church play in ██████ County.

- 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.

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

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.

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 third-level sanction results in an ineligibility for WV WORKS cash assistance for a three month period.
- 2) Claimant failed to comply with the requirement on her PRC of attending all scheduled appointments. Claimant also failed to provide verification of good cause of being out of town when the assessment appointment letter was mailed at her good cause appointment. The caseworker is given discretion in determining whether or not good cause exists and determined that Claimant was able to participate in her community service activity in her home county and should have been able to check her mail on a regular basis.
- 3) Claimant failed to present good cause for not attending her assessment appointment and a third sanction was justly proposed.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal 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 2nd day of May 2011.

**Kristi Logan
State Hearing Officer
Member, Board of Review**