



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

April 8, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held April 6, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to implement a second sanction against your WV WORKS cash assistance.

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. 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 second offense, the sanction results in a two-thirds reduction in cash assistance for a three month period (West Virginia Income Maintenance Manual § 13.9).

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

It is the decision of the State Hearing Officer to Uphold the action of the Department to implement a second WV WORKS sanction.

Sincerely,

Eric Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Jo Evans, Family Support Specialist

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

-----,

**Claimant,**

**v.**

**Action Number: 11-BOR-670**

**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 April 6, 2011 on a timely appeal, filed February 25, 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  
Jo Evans, 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 decision to implement a second sanction against the Claimant's WV WORKS cash assistance.

**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 Notice of Appointment dated January 26, 2011
- D-3 Personal Responsibility Contract September 2, 2010
- D-4 Notice of Decision dated February 3, 2011
- D-5 West Virginia Income Maintenance Manual Chapter 13.9

**VII. FINDINGS OF FACT:**

- 1) The Claimant, a current recipient of the WV WORKS cash assistance program, completed Exhibit D-3, Personal Responsibility Contract as an ongoing eligibility requirement of the program. This exhibit documents the self-sufficiency goals of the Claimant, while a participant in the WV WORKS program. Additionally, this exhibit documents the Claimant's assigned activities for the program as, "keep all appts [appointments]-ongoing, pursue Soc. Sec. [Social Security] for self and son."
- 2) On January 26, 2011, the Department issued the Claimant Exhibit D-2, Notice of Appointment informing that a home visit would be conducted at his residence. Exhibit D-2 documents in pertinent part:

As a condition of your eligibility for financial assistance from the Department of Health and Human Resources, you are currently enrolled or are required to enroll for employment related services with West Virginia WORKS.

A HOME interview has been scheduled for you on:

Date: 2/2/11  
For: 10:00

- 3) Ms. Jo Evans, Family Support Specialist testified that she arrived at the Claimant's home, on the scheduled date, to complete the visit and the Claimant was not at his residence. Based on his absence for the home visit, the Department issued the Claimant Exhibit D-4, Notice of Decision which documents in pertinent part:

## WV WORKS/WV EMPLOYMENT ASSISTANCE PROGRAM

Action: Your WV WORKS/WVEAP will decrease from \$340.00 to \$114.00 effective 3/1/11.

Reason: A second sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC).

A sanction will be applied to your assistance group effective 3/11. This is the second sanction and will continue for 3 months.

Your WV WORKS benefit amount before any repayment is taken out will be reduced by 2/3.

This sanction is being applied due to the failure of ----- to meet the terms of the Personal Responsibility Contract by FAILING TO KEEP APPOINTMENT.

We want to resolve this issue and determine if you had good cause for not meeting the terms of your contract.

We have scheduled a GOOD CAUSE interview for ----- on 2/14/11 at 10:00 at the office address listed above.

If this appointment is NOT kept, the sanction listed above WILL be applied to your benefits.

- 4) Ms. Evans stated that a good cause appointment was scheduled for February 14, 2011 at 10:00 A.M. and the Claimant failed to appear for the scheduled appointment to present good cause for failing to attend the scheduled home visit.
- 5) The Claimant purported that he placed his dogs inside of his home and was having a conversation with his nephew outside of his home. The Claimant stated that he left his home at around 10:30 A.M. to go to his parent's home, who reside beside the Claimant, to finish his laundry. While at his parent's home, the Claimant noticed Ms. Evans leaving his residence and tried to stop her, but was unsuccessful. The Claimant stated that he immediately phoned the office to notify Ms. Evans. The Claimant provided testimony indicating that he has not missed any appointments prior to this missed appointment and would not intentionally violate the program rules as he is dependent upon this assistance, in order to provide for his children.
- 6) Ms. Evans stated that when she arrived at the Claimant's home, all of his dogs were in his fenced front yard barking and growling. Ms. Evans purported that she did not go inside the yard, implying safety concerns, and waited outside of the home for several minutes, assuming that the Claimant would hear his dogs barking. Ms. Evans stated that she went to her vehicle and honked the horn several times, but no one came out of the residence. Ms. Evans stated that when she arrived back at the office she received notice that the Claimant had phoned her and she returned his phone call and discussed with the Claimant the situation involving the home visit.

- 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.

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.

The client must also be given the opportunity to establish Good Cause.

### **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. Sanctions are imposed in the form of benefit reductions to the individuals WV WORKS benefits. The penalty for a first sanction results in a one-third reduction in benefit, the penalty for a second sanction results in a two-thirds reduction in benefit, and the penalty for all third and subsequent offenses is an ineligibility of WV WORKS assistance for three months.
- 2) The evidence reveals that the Claimant failed to cooperate with his PRC, when he was absent from a scheduled home visit appointment with the Department. The Department afforded the Claimant a formal opportunity to relieve the sanction, but the Claimant failed to appear for such appointment and establish good cause. Based on the fact that the Claimant was not present for his scheduled home visit and failed to establish good cause prior to the implementation of the sanction, the Department was correct in its decision to implement a second sanction against the Claimant's WV WORKS assistance.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the action of the Department to implement a second WV WORKS sanction against 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 April, 2011.**

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**Eric L. Phillips  
State Hearing Officer**