



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

November 16, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 25, 2007. Your hearing request was based on the Department of Health and Human Resources' action to apply a third-level sanction to your WV Works case.

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 in part: Sanctions are applied to WV WORKS cases in the form of check reductions and, for the third or subsequent offense, termination of benefits. (West Virginia Income Maintenance Manual § 13.9)

The information, which was submitted at your hearing, revealed you did not meet the terms of your Personal Responsibility Contract by not completing CWEP at Mercer School. Good cause was not established.

It is the decision of the State Hearing Officer to uphold the action of the Department to impose a third-level sanction to your WV Works case.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Judy B. Bell, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-2184

**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 October 25, 2007 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 25, 2007 on a timely appeal, filed September 19, 2007.

II. PROGRAM PURPOSE:

The Program entitled WV Works is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

WV Works was created by Senate Bill 140, Article 9 of the West Virginia Code and the Temporary Assistance to needy Families Block Grant, Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The purpose of WV Works is to provide assistance to needy families with children so they can be cared for in their own home, reduce dependency by promoting job preparation, work and marriage. The goals of WV Works are to achieve more efficient and effective use of public assistance funds, reduce dependence on public programs by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

III. PARTICIPANTS:

_____, Claimant
Louise Blaylock, Family Support Specialist, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department was correct in the decision to impose a sanction against the Claimant's WV Works case.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 13.10, 13.6B, 13.2B #2, 1.25 & 13.9A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Summary
- D-2 Personal Responsibility Contract (PRC) dated 08/13/2007
- D-3 CWEP Contract Voided dated 08/17/2007
- D-4 Updated PRC dated 08/17/2007 with new assignment
- D-5 Updated CWEP Contract with Melrose School
- D-6 Updated PRC dated 08/24/2007
- D-7 New CWEP Contract done 08/24/2007 with above PRC
- D-8 Voucher to Goody's for clothing
- D-9 Time Sheet unsigned for month of August 2007
- D-10 Sanction Notice dated 08/29/2007
- D-11 Updated Food Stamp Notice
- D-12 WV Income Maintenance Manual Policy §13.2 & 13.6
- D-13 WV Income Maintenance Manual Policy §13.9 & 13.10

VII. FINDINGS OF FACT:

- 1) The Claimant and her husband applied for WV Works on 08/13/2007. She chose to do the work assignment. She wanted to be as close to home as possible so it was arranged for her to begin a CWEP assignment at Melrose Elementary. The Claimant reported on 08/24/2007 that she was not able to get enough hours at Melrose Elementary.
- 2) The Claimant agreed to a CWEP assignment at Mercer School. The Claimant had a nasty bruise on her arm and was on her way to see if the arm was broken. She agreed if for any reason she could not do the work activity, she would send her husband in to be assigned instead to obtain needed hours. The Claimant requested clothing and a voucher was completed to Goody's for \$150.00.
- 3) The Claimant signed the Personal Responsibility Contract 08/24/2007 agreeing to start CWEP at Mercer School 08/27/2007. (Exhibit D-6) She did not start on this date because

of the arm injury. She agreed to go by Melrose and pick up her time sheet for hours worked there, drop it off for her worker, and then report at 6:00 a.m. on 08/28/2007 at Mercer.

- 4) Testimony from the Department's representative revealed that she called I at Mercer School on 08/28/2007 and she had not seen or heard from the Claimant. In the meantime, the case worker had received a voice mail from the principal of Melrose School stating she didn't know what happened to the Claimant but that she had stopped showing up. The Claimant had worked a total of nine (9) hours. The worker converted the nine hours worked by chart and it comes out to two (2) hours. The Claimant had not signed the time sheet. A school official at Melrose confirmed that she had told the Claimant that once school was actually in, she could more than give her enough hours to get 34.5 hours per week.
- 5) A letter was sent to the Claimant dated 08/29/2007 which reads in part: Your WV Works will stop. You will not receive this benefit after September 2007. Reason: A third-level sanction is applied due to failure to comply with the requirements of the Personal Responsibility Contract (PRC). This sanction is being applied due to the failure of JE to meet the terms of the Personal Responsibility Contract by failing to attend an assigned activity. A good cause appointment was scheduled for 09/14/2007. (Exhibit D-10)
- 6) The Claimant called on 09/13/2007 and wanted to know the date of the good cause appointment as she had lost her letter. She reported she and her husband had been riding horses and she was thrown off and was skinned up. When asked if she had medical, the Claimant had reported she didn't like hospitals and didn't go. Good cause was not established.
- 7) The Claimant was in the office and requested a hearing on 09/19/2007. Benefits were not continued as the request was not timely. The Claimant was back in the office on 10/01/2007 wanting to know why she was not receiving benefits. It was explained that the hearing request was not timely. The Claimant stated she had dropped a request off earlier around the 3rd of September. Testimony from the Department's representative revealed that a check of the clerical register from 09/03/2007 through 09/13/2007 did not show anything was dropped off from the Claimant. If anything is dropped off, it is date stamped and logged in before going to the worker.
- 8) The Department's representative noted at the conclusion of her testimony that she realized when working the case up for the hearing that a penalty should have been applied for food stamps. On 10/16/2007 she coded the case for a three month penalty – October through December 2007. A notice went out to the Claimant 10/17/2007.
- 9) Testimony from the Claimant revealed that she first had the bruise on her arm. Then when was to start Melrose School, she fell off of a horse. She was told she needed to go to the doctor. She went to the emergency room, a CT scan and x-rays were done. She was told she needed to see a doctor as it was believed she had torn ligaments in her neck. She wore a neck brace for a week. She did not bring in a doctor's statement. She was given medication for muscle relaxers and pain pills. The prescriptions were filled 09/23/2007. She had agreed if she could not work at Mercer School, she would send her

- husband, _____. She could not get him to work.
- 10) **WV Income Maintenance Manual § 13.9A:**
Sanctions are applied to WV WORKS cases in the form of check reductions and, for the third or subsequent offense, termination of benefits. The amount of the check reduction is a fixed amount and is determined as follows:
1st Offense = 1/3 reduction in the check amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months
2nd Offense = 2/3 reduction in the check 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 check amount the client is currently eligible to receive, prior to recoupment; it is not applied to the check amount which has already been reduced by 1/3.
3rd Offense = Ineligibility for cash assistance for 3 or until compliance, whichever is later. All benefit reductions due to imposition of a sanction require advance notice. Unless the client shows good cause for non-compliance, the sanction is imposed.
- 11) **WV Income Maintenance Manual § 1.25:**
Failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction against the AG. No sanction may be imposed for failing to adhere to any provision that is not specifically addressed on the PRC at the time the failure occurred.
- 12) **WV Income Maintenance Manual § 13.2B #2:**
A WV WORKS recipient who is subject to a WV WORKS work requirement is subject to a Food Stamp penalty, as found in Section 13.6, if he fails, without good cause, to meet a WV WORKS work requirement, unless he also meets an exemption listed in item A,2 above.
- 13) **WV Income Maintenance Manual § 13.6B:**
A WV WORKS recipient who is exempt from Food Stamp work requirements only because he is subject to and complying with a WV WORKS requirement in Sections 24.6 – 24.13,A is subject to the following penalties when he does not comply. A WV WORKS offense that involves a work requirement which results in application of a WV WORKS sanction may also result in a Food Stamp penalty.

First violation: The individual is removed from the AG until the individual reports a change that makes him exempt according to Section 13.2,A,2 for some reason other than UCI-related activities or for a maximum of 3 months. Following the end of the 1st penalty, the Worker must add the individual to the AG, if the individual is otherwise eligible.
- 14) **WV Income Maintenance Manual § 13.10:**
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 is clear in §1.25 that failure, without good cause, to adhere to the responsibilities or any tasks listed on the PRC after signature, results in imposition of a sanction.
- 2) The Claimant in this case signed the PRC on 08/24/2007 agreeing to work CWEP at Mercer School. Good cause was not established. The sanction notice was issued 08/29/2007 and the good cause appointment was scheduled for 09/14/2007. Although the Claimant reported she had some medical problems, no doctor's statement was provided to her case worker. Testimony at the hearing revealed the prescription was not filled until 09/23/2007.
- 3) The imposition of the sanction is valid.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to apply a third-level sanction for the failure of the Claimant to adhere to her Personal Responsibility Contract.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16th Day of November 2007.

Margaret M. Mann
State Hearing Officer