



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 30, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 17, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your benefits under the West Virginia Works Program based on application of a first program 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 West Virginia 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 penalty is a 1/3 check reduction for three months. Once a sanction has been imposed, it cannot be stopped until the appropriate action is taken or the appropriate time has elapsed, whichever is later. (West Virginia Income Maintenance Manual Section 13.9)

Information submitted at your hearing reveals that you failed to comply with the requirements of your PRC. Because you were unable to establish good cause for non-compliance, the Agency has correctly proposed that a first sanction be applied to your case.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to apply a sanction to your West Virginia Works case.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Sharon Straley, FSS, DHHR

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

_____ ,

Claimant,

v.

Action Number: 06-BOR-2382

**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 August 30, 2006 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 August 17, 2006 on a timely appeal filed July 13, 2006.

It should be noted that WV Works benefits have not been continued pending a hearing decision.

II. PROGRAM PURPOSE:

The program entitled West Virginia 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:

_____, mother of Claimant
Jessica Sutton, Family Support Specialist, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 its proposal to decrease the Claimant's WV Works benefits based on application of a first sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 1.25, 10.24, 13.9 and 24.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Works Personal Responsibility Contract dated December 15, 2005
- D-2 WV Works Personal Responsibility Contract dated January 31, 2006
- D-3 Case comments
- D-4 Redetermination appointment letter dated May 17, 2006
- D-5 WV Works termination letter dated June 15, 2006
- D-6 WV Works sanction and good cause appointment letter dated June 15, 2006
- D-7 WV Works cash assistance decrease letter dated June 19, 2006
- D-8 West Virginia Income Maintenance Manual Sections 1.25, 10.24, 13.9 and 24.4

VII. FINDINGS OF FACT:

- 1) The Claimant completed a WV Works Personal Responsibility Contract on December 15, 2005 (D-1), agreeing to attend any meetings/appointments related to her eligibility for cash assistance and her self-sufficiency goals.
- 2) The Claimant completed an updated Personal Responsibility Contract on January 31, 2006 (D-2), agreeing to "check back and do all things required."
- 3) Case comments (D-3) indicate that the Claimant failed to keep an appointment for a WV Works redetermination on June 13, 2006. Ms. Sutton testified that the appointment had originally been scheduled for June 1, 2006 (D-4), but was rescheduled to June 9, 2006 at the Claimant's request and again to June 13, 2006. A first sanction was applied effective July 2006 through September 2006 based on failure to keep the June 13, 2006 redetermination appointment. The Claimant was sent a letter on June 15, 2006 (D-6)

informing her of the sanction and notifying her that a good cause appointment had been scheduled for June 27, 2006.

- 4) Ms. Sutton testified that missing appointments is an ongoing problem for the Claimant. She testified that Ms. _____ had contacted her on June 15, 2006 and indicated that she had been unsure of her daughter's appointment date. Ms. _____ completed the WV Works redetermination on June 16, 2006. Ms. Sutton testified that the first sanction was addressed and that a good cause interview was conducted at that time. It was determined that the Claimant did not have good cause for failing to attend the June 13, 2006 appointment.
- 5) Ms. _____, who stated that she and her daughter are both disabled, testified that she did not recall why her daughter failed to attend the original review appointment on June 1, 2006. She testified that her daughter had a doctor's appointment on June 9, 2006 and that the family relies on Mountain State Transportation to transport them to such appointments. Ms. _____ indicated that she had informed Ms. Sutton via telephone that the Claimant might be unable to keep the June 9, 2006 appointment depending on the scheduling of medical visits. Ms. _____ testified that the Claimant did not attend the June 13, 2006 redetermination appointment because she had mistakenly believed that the appointment was scheduled for June 16, 2006 and had not received a letter. Ms. Sutton testified that the Claimant was sent a letter in conjunction with the original June 1, 2006 redetermination appointment, but was not sent letters concerning subsequent appointments as she does not routinely send correspondence addressing rescheduled reviews. In addition, Ms. Sutton stated that the brief time frame involved would not have permitted the mailing and/or receipt of such appointment letters.
- 6) Policy found in West Virginia Income Maintenance Manual Section 1.25, T, (D-8) provides that the PRC form (OFA-PRC-1) is a negotiated contract between the adult or emancipated minor members of the WV WORKS AG and the Worker. Failure, without good cause, to adhere to the responsibilities contained in Part 1 of the PRC results in imposition of a sanction against the benefit group. Refusal or other failure, without good cause, to adhere to the self-sufficiency plan (Part 2 of the PRC) results in imposition of a sanction against the benefit group.
- 7) West Virginia Income Maintenance Manual Section 13.9:
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 or until compliance, whichever is later.
- 8) West Virginia Income Maintenance Manual Section 13.9 (D) states that once a sanction has been imposed, it cannot be stopped until the appropriate action is taken or the appropriate time has elapsed, whichever is later.
- 9) West Virginia Income Maintenance Manual Section 13.10 sets forth good cause criteria

for failure to meet work requirements or adhere to the Personal Responsibility Contract. The client has good cause for failure to participate when:

- The parent or included non-parent caretaker 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. College is defined as a 2- or 4-year undergraduate degree program.
- A single parent can prove that child care is unavailable for his child, age 6 or under.
- He is required to appear in court or for jury duty.
- He is experiencing a family crisis such as death or the life-threatening illness of a spouse, parent, child or stepchild, or domestic violence and/or the need to protect abused children makes participation impossible, dangerous or embarrassing and the client accepts a referral for assistance.
- The minimum suitability standards for the specific activity are not met.
- Based on knowledge of the client and his life circumstances, the worker determines that the client has not met the requirement, but has complied to the best of his ability.
- A requirement of Social Services precludes participation for a specified period of time.
- He refuses to accept surgery which would eliminate or significantly improve his condition, even if the refusal precludes participation.
- He would be required to travel more than one hour each way to participate.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that failure, without good cause, to adhere to the responsibilities contained in Part 1 of the PRC results in imposition of a sanction against the benefit group. Refusal or other failure, without good cause, to adhere to the self-sufficiency plan (Part 2 of the PRC) results in imposition of a sanction against the benefit group.
- 2) 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. For a first offense, the penalty is a 1/3 reduction in the check amount for three months.
- 3) Evidence reveals that Ms. Sutton made reasonable effort to establish a suitable appointment date for the Claimant's redetermination. The Claimant's mother testified that the Claimant failed to attend the June 13, 2006 appointment because she had recorded the wrong date for the appointment. This explanation fails to establish good cause for failure to comply with PRC requirements.

- 4) Whereas the Claimant was unable to establish good cause for failing to adhere to her PRC, the Agency has correctly proposed the application of a first sanction to her WV Works benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency in applying a first sanction to the 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 30th Day of August 2006.

**Pamela L. Hinzman
State Hearing Officer**