

**15.6 LIFETIME LIMIT FOR RECEIPT OF CASH ASSISTANCE (TANF, WV WORKS)****A. SIXTY-MONTH TIME LIMIT**

**NOTE:** For cases that were active cash assistance recipients in 1/97, the first month of the lifetime limit is 1/97.

There is a lifetime limit of 60 months that a family may receive cash assistance under TANF and/or WV WORKS. The presence of even one AG member who has received TANF and/or WV WORKS as an adult or an emancipated minor renders the entire AG ineligible. Children who continue to reside with an adult or emancipated minor who received TANF and/or WV WORKS for 60 months are not eligible. The amount of the payment received has no bearing on the time limit, so that a payment of \$1 counts as one month toward the 60-month limit.

**EXAMPLE:** A divorced woman and her two children have received WV WORKS for 60 months. The woman marries the father of one of her children and together they apply for a check. Although her husband has never received WV WORKS, the family is not eligible and the application is denied.

**EXAMPLE:** A married couple and their three children receive WV WORKS. In the 54th month, one parent is approved for SSI. The rest of the family is eligible to receive a check for an additional 6 months. In the 59th month the non-SSI parent dies. The case becomes a child-only case with no time limit.

**EXAMPLE:** A man and his child receive WV WORKS for 60 months. The father cannot find employment and relinquishes custody of the child to a grandmother. The grandmother no longer has a dependent child of her own, but received WV WORKS for 37 months before her youngest child turned 18. She opts to be included in the check with her grandchild and may receive a check for up to 23 months.

**EXCEPTION:** Any month during which the adult lived on an Indian reservation or in an Alaskan Native village is not counted toward the 60-month limit if:

- At least 1,000 individuals were living on the reservation or in the village; and
- At least 50% of the adults living there were unemployed.

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B. BENEFITS WHICH COUNT TOWARD THE LIMIT

Receipt of any of the following benefits counts as 1 month toward the 60-month limit when an adult or emancipated minor is included in the AG. When 2 or more of the benefits are received for the same calendar month, only 1 month is counted toward the limit.

- TANF check from WV or from any state that used TANF block grant money for the payment. See Appendix C of Chapter 1 for a list of states and when they converted to TANF.
- WV WORKS check

**EXCEPTION:** When a TANF or WV WORKS check was received ineligibly, and is repaid in full, that month does not count toward the 60-month limit.

The limit is not 60 months for each state of residence. The time limit applies to all benefits received throughout the United States and its territories as long as the benefits were received under the TANF Block Grant. Therefore, when a client indicates he has been a resident of another state, the Worker must determine if he received cash assistance and, if so, if the program was funded under the Block Grant authorized by PRWORA. See Section 15.1 for a detailed explanation of the welfare reform legislation and its impact on cash assistance programs. States had until July 1997 to convert from the former AFDC Program to a program funded under the Block Grant. Many states converted to the new program early. Therefore, the Worker must determine when the benefits from another state were received. If months prior to 7/97 are involved, the Worker must also determine how many months of benefits the client received under the Block Grant program. See Appendix C to Chapter 1 for a list of states and their effective dates of conversion to TANF.

C. PROVISIONS FOR AN EXTENSION OF THE TIME LIMIT

There are provisions which may allow a family to receive benefits for more than 60 months. There is a limit imposed by the federal government on the percentage of the caseload that is allowed to be exempt from the 60-month requirement.

The limit is 20% of the average monthly number of WV WORKS AG's, minus only the average monthly number of child-only AG's. This number is only valid on a statewide basis. Therefore, the percentage of extensions from county to county may vary greatly.

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THE WORKER MUST NOT INFORM THE CLIENT THAT HE IS, OR MAY BE, EXEMPT FROM THE TIME LIMIT DURING THE 60-MONTH ELIGIBILITY PERIOD, UNLESS WRITTEN NOTICE OF APPROVAL HAS ALREADY BEEN RECEIVED FROM THE OFS EXTENSION COMMITTEE.

Once an extension is approved, the client must meet the criteria on which the extension was based each month of the extension period. In addition, the individual must be actively engaged in an activity or process designed to further the AG's goal of self-sufficiency. The Worker may close the case at any time during the extension period when the client fails to follow through on requirements established for receipt of the additional months of WV WORKS. **The Worker must continue to monitor the case each month to determine if the client continues to meet the extension criteria identified at the time of the Committee's extension approval.**

A temporary extension of up to 6 months may be given only once for the adults and emancipated minors in the AG at the time the extension is approved, unless the extension is based wholly or in part on domestic violence. See item 1 below.

Once an AG is closed due to receipt of TANF benefits for 60 months, every application that includes an individual who received benefits as an adult or emancipated minor for 60 months is denied. No extensions are approved after AG closure for this reason.

**EXCEPTION:** Victims of domestic violence who meet the criteria in item C, 1, below, may reapply for WV WORKS after the 60-month closure.

The presence of any adult or emancipated minor who meets at least one of the following criteria is eligible to be considered for an extension of the 60-month time limit. The possible extensions are listed in priority order.

**NOTE:** All extensions are temporary. Unless specified below, an extension may only be approved for up to 6 months and may be approved only once. Even if the situation of another adult or emancipated minor in the same AG was responsible for approval of an extension, any other adult or emancipated minor who received the benefit of the extension is considered to have received the one-time-only extension.

1. Battered Or Subjected To Extreme Cruelty

**NOTE:** An extension based solely or in part on this criteria may be approved multiple times and may exceed the 6-month limit. These multiple extensions need not be consecutive because clients may reapply after case closure.

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## a. Recipients

For extension purposes these conditions are defined as follows:

- Physical acts that result in, or threaten to result in, physical injury; or
- Sexual abuse; or
- Sexual activity involving a dependent child; or
- Being the caretaker of a dependent child and being forced to engage in non-consensual sex acts; or
- Threats of, or attempts at, physical or sexual abuse; or
- Mental abuse; or
- Neglect or deprivation of medical care.

The individual who meets the definition must accept a referral to a domestic violence program that operates under a State license or through an agreement with DHHR. In addition, the client must participate in and follow any plans developed with the program.

Once an extension is approved based on the above criteria, the Worker must monitor the case for compliance. The WV WORKS check continues until the situation is resolved or the AG is no longer eligible for a check for other reasons. Normal redetermination procedures apply.

## b. Applications After 60-Month Closure

Applications may be approved for individuals who have received 60 months of WV WORKS but who fit the criteria outlined in item a, above. The Worker must notify the Extension Committee of the approval and send a completed extension form for its review.

As in any extension, the Worker must monitor compliance and close the case when the client is no longer following a plan or when the situation has been resolved and domestic violence is no longer an issue.

There is no limit to the number of times a household may reapply and be approved so long as the situation remains unresolved and the client is in compliance.

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## 2. Providing Care For A Relative

For extension purposes, all of the following conditions must be met.

- **It must be a single parent household, unless one parent is providing care for the other parent who is disabled; and**
- The care giver would normally be required to meet a work requirement; and
- Is needed at home to care for a child, spouse, parent or grandparent; and

The person who needs the care lives with the care giver and is physically or mentally disabled, as determined by medical evidence, to the extent that he would require institutionalization if not for the care being provided; or

- The person who needs the care requires constant monitoring and frequent medical attention or hospitalization; and
- No one else is available to provide this care.
- Such care will not be necessary for more than 6 months, or the family has made other care arrangements that will be completed within 6 months, or the family is attempting to make other care arrangements, including application for Title XIX Medicaid benefits, if appropriate.

## 3. Late Onset Of Incapacity

Clients who experience the onset of a temporary incapacity after the 55th month of WV WORKS may qualify for a one-time extension of up to 6 months while undergoing treatment for the injury or illness. The Worker must obtain a decision of incapacity from MRT, and the decision must indicate that the individual will be able to engage in gainful employment following the period of incapacity. **If there are two parents or two non-parent caretakers, both must be disabled or incapacitated to qualify for an extension based on this provision.** Failure of the client to accept or continue treatment for the illness or injury before the extension begins will result in denial of the request. Failure to cooperate following the beginning of the extension period will result in case closure.

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**If it is determined by MRT that the individual will be temporarily unable to engage in gainful employment for a period of time on or following his 60<sup>th</sup> month of eligibility, he may qualify for an extension of up to six months. The number of months granted will depend on the length of time that MRT has determined him to be unable to engage in a gainful activity. The local office will be responsible for monitoring the medical status of the client each month.**

4. Disabled

Disabled is defined as unable to engage in gainful employment, as determined by a medically qualified professional. It applies when there is only 1 parent or 1 non-parent caretaker in the household. If there are 2 parents or 2 non-parent caretakers, both must be disabled to qualify for extension based on disability.

It is assumed that an individual who states he is disabled will already have medically established his disability by the 55th month of TANF/WV WORKS receipt. If not, he must apply for SSI and be referred to MRT prior to approval of an extension. An SSI denial based on no disability does not automatically preclude an extension on this basis if MRT finds him to be disabled. However, the individual must be actively appealing his SSI denial to qualify for an extension.

If it is determined that the individual is not disabled, or is able to engage in gainful employment with no limitations, he does not qualify for consideration of an extension.

If it is determined that the individual is able to engage in gainful employment with some limitations, he may qualify for an extension of up to 6 months to locate suitable employment. The individual must be cooperating with Division of Rehabilitation Services during this period, if appropriate.

**If MRT has determined, before or during the 60<sup>th</sup> month of benefits, that the individual will be temporarily unable to engage in gainful employment for a period of time extending beyond the 60<sup>th</sup> month of eligibility, he may qualify for an extension of up to six months. The number of months granted will depend on the length of time that MRT has determined him to be unable to engage in a gainful activity. The local office will be responsible for monitoring the status of the client on a monthly basis. If an MRT re-evaluation is due during that period and the decision again finds the individual unable to participate, the extension will continue up to six months. During the extension period, the Worker must monitor the case to make sure the client remains eligible.**

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**EXAMPLE:** If a person receives their 60<sup>th</sup> month of benefits in January 2006 and has been found to be disabled or incapacitated by MRT with a re-evaluation due in February 2006, the Committee approves a one month extension through February 2006. In February, MRT determines that the disability continues and sets the next re-evaluation for August 2006. The extension may be extended through July 2006, which would be the sixth month of benefits over the 60 month time limit.

If it is determined that the individual is permanently unable to engage in gainful employment, he qualifies for consideration for an extension of up to 6 months to apply for, or appeal prior denials of, statutory benefits. Statutory benefits include, but are not limited to, RSDI, SSI, VA, and/or Railroad Retirement.

5. Pregnancy/Age Of Child

An AG may qualify for an extension when both of the following conditions are met.

- There is only 1 adult or emancipated minor in the household; and
- The pregnant woman will be in her last trimester of pregnancy in the 60th month of TANF receipt; or

The AG includes a child who will be less than 6 months of age in the 60th month of TANF receipt.

**EXAMPLE:** A pregnant woman with one other child also cares for her nephew, age 17. She qualifies for consideration under this extension criteria.

**EXAMPLE:** A pregnant woman with two other children lives with her boyfriend, age 20, who is not the legal father of any of the children. She does not qualify for consideration under this extension criteria.

**EXAMPLE:** A woman with a newborn child lives with her other children and her mother. She does not qualify for consideration under this extension criteria.

When based on a verified pregnancy, the extension remains in effect for up to 6 months. When the pregnancy does not end in a live birth, the extension, if already approved, remains in effect for 2 months following the end of the pregnancy.

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When based on age of a child, the extension remains in effect until the child is 6 months old.

6. In A Vocational Training/Educational Activity

The extension is based on maintaining satisfactory progress toward course completion in a vocational training or educational activity. Satisfactory progress is defined by the facility or course of study, but must be expected to result in a measurable outcome, such as a diploma, degree, or certificate, that will assist in attaining self-sufficiency.

To qualify for consideration of this extension, one of the following situations must exist:

- In his 55th month of TANF receipt, the client is attending a vocational training or an educational activity; or
- In his 55th month of TANF receipt, the client is enrolled to begin vocational training or an educational activity.

Vocational training is preparation for a specific occupation. The training is conducted by an instructor in a non-work site or classroom setting.

Educational activities are limited to literacy programs, high school, ABE and 2- and 4-year college programs.

The extension remains in effect for up to 6 months. **The Worker is responsible for monitoring the attendance of the participant during the extension period. Should their enrollment end, the Worker must send notification and close the WV WORKS benefit.**

**To qualify for an extension under this provision, a two-parent household must have both parents enrolled, making satisfactory progress and meet the other eligibility requirements as stated above.**

7. The Extension Committee only may approve an extension based on agency error, if during the extension request process, either the local office or the Extension Committee does not act in a timely manner. This must occur between months 55 through 60. No repayment required if extension is not approved. This extension is limited to three months.



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8. Vance v. Nusbaum

Extension for assessment and referral for additional services in accordance with Vance v. Nusbaum Court Order. The extension is based on the criteria established in the above case Agreed Order entered March 10, 2004.

All WV WORKS recipients who had reached and exceeded 60 months of TANF, prior to April 1, 2004, whose case had been sanctioned during the course of those 60 months, and had not received an extension will be sent a notice dated November 2004 advising them of the opportunity to request a review of any sanction that had been applied to their case. From the time of the notice, the client will have 60 days to request a review of any sanction they believe was unfairly applied due to an existing physical or mental illness or learning disability recognized under the American Disabilities Act (ADA).

Review of the sanction(s) will be completed by a county Designated Case Worker (DCW) utilizing medical documentation of the disability at the time a sanction(s) was applied to the case. The Designated Case Worker may not be a Worker that ever applied a sanction to the case being reviewed. The Worker will make a determination as to whether or not the recipient was unfairly sanctioned based on the medical information provided by the recipient and the WV WORKS case record. If the Worker is unable to make the determination, the medical information will be referred to the Medical Review Team for evaluation within 90 days.

NOTE: In lieu of medical documentation, a disability will be established if Social Security found the recipient to be disabled within two years of the date a sanction was applied to the case.

If the Worker finds that the individual was unfairly sanctioned due to a disability, a referral will be made to the 60 Month Review Committee with a recommendation to reevaluate the new information gathered for a possible six month extension for additional assessment and referral for additional services.

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After a client has received WV WORKS for 55 months, a formal case review must be conducted. The Worker must issue letters to the client, the intensive case management agency and other DHHR staff to coordinate and schedule the appointment. The client is responsible for notifying anyone he wants to be involved in the process. The review involves a face-to-face meeting with the Worker, Supervisor, the client and his advocate(s) or representative(s), the intensive case management agency, the Community Services Manager, and any other entity with a vested interest, such as, but not limited to, representatives from Social Services, Housing, and Domestic Violence. This group determines what can be done before the client reaches the 60-month time limit to become self-sufficient, or to start the process toward self-sufficiency. If the group determines an extension is appropriate, a recommendation as to the number of months of the extension is required.

If the group decides additional months are needed, all paperwork for an application for extension is to be completed at this time. The group will review the extension categories and their definitions to determine the appropriate category to use for the client's request.

During this meeting, a plan must be made to outline how the extension time will be used to move the client toward self-sufficiency.

**In order to insure that time frames are met, if the client indicates he would like to apply for an extension based on disability, and the case has not been submitted to MRT, the MRT process should begin immediately so that a decision may be made in a timely manner.**

If he fails to appear at the first scheduled review and does not reschedule it, the Worker is no longer obligated to pursue the review process. However, if the client later requests help of this kind, his request must be honored when the process can be accomplished prior to receipt of the 60th month's benefit.

If the client requests the first review be rescheduled, his request will be honored once. After one rescheduling, the Worker is no longer obligated to pursue the review, if the client fails to appear. However, if the client later requests help of this kind, his request must be honored when the process can be accomplished prior to receipt of the 60th month's benefit.

All scheduling, rescheduling and abandonment of the review process must be documented in RAPIDS. If the client refuses to cooperate at all with this case review process, it must be documented in RAPIDS and the Worker is no longer obligated to pursue the review. There are no sanctions or other penalties associated with refusal to cooperate.

## E. EXTENSION PROCEDURE

The process for determining if an extension may be applied begins in the 55th month of the 60-month lifetime limit when the client is mailed a special notification letter about the end of his 60-month time limit. The notice is to be returned to the state office for consideration of an extension of the time limit. If the form is returned to any local office, the local office must forward it immediately to the Policy Unit. If the Worker or Supervisor becomes aware of a client who did not apply for an extension but who may be eligible for one, he must notify the Policy Unit immediately by GroupWise for consideration of an extension.

All requests for extension are made to a 9-member committee consisting of 4 regional representatives and 5 appointees from various State offices, including Social Services, WV WORKS, Monitoring, the Medical Review Team, and the Policy Unit.

Once the forms are received in the state office, they are logged in and tracked to make sure information is obtained and a timely decision is made. **The client's Worker and the Worker's Supervisor are notified of the request. The Worker completes the Extension Request Form (DFA-EX-1) and forwards it along with any other information requested to the DFA Policy Unit. If the client is requesting an extension due to a late onset illness or disability, the packet should include the MRT decision. The DFA-EX-1 must be signed by the Worker and Supervisor and include the local office recommendation regarding the extension. All requested information should be submitted within 30 days or the local office should notify the WV WORKS Policy Unit regarding the reason for the delay.** All such extensions are approved at the State Office level by the Extension Committee.

If the client does not indicate he wants to be considered for an extension and the Worker and/or Supervisor do not recommend an extension for him, the family is ineligible after receipt of the benefit for the 60th month. Advance notice requirements apply, but benefits must not be continued pending a Fair Hearing decision should the AG request a hearing following case closure.

**If an extension is requested based on more than one of the possible categories, or it appears to the Worker that the client may be eligible for an extension based on a different provision, it is the Worker's responsibility to provide case information that addresses both possible categories with an emphasis on the provision that would provide the most possible months of extended eligibility.**

If an extension is approved, the Committee notifies the local office of the length of the extension and the requirements for compliance with the terms of the

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extension. The local office notifies the client of the approval and the client's responsibilities once the extension begins. The local office is responsible for monitoring the time limit to assure that it is not exceeded and that the client remains eligible for the extension.

If an extension is denied, the client may request a Fair Hearing, but benefits must not be continued pending the Fair Hearing decision.

During a pre-hearing conference, the Worker may determine that a verified change in the client's circumstances has occurred and that a reconsideration of the client's extension request is appropriate. The change must have occurred between the time of the initial request for extension and receipt of the 60th month of WV WORKS benefits. The Supervisor is responsible for approving the submittal of a request for reconsideration to the Extension Committee.

When such a change has occurred and been verified, or the Hearings Officer has ruled the county must request reconsideration, the Supervisor must notify the Committee over GroupWise that a reconsideration is being requested and include a description of the change, how it was verified, and the recommendation of the Supervisor for approval or denial.

Submission of a request for reconsideration late in the 60-month time limit does not result in an automatic extension. No extension is applied unless the Committee approves an extension prior to case closure at the end of the 60th month, or criteria in item C,1,b, applies.

The Committee follows the same procedure for a reconsideration of an extension as for an original request. There is no limit on the number of times an extension request may be reconsidered, provided the AG has not received its 60th month of TANF/WV WORKS.

**F. FAIR HEARING PROCEDURES**

Any client whose request for extension has been denied for any reason may request a Fair Hearing. Benefits, however, may not be extended beyond the 60th month or be reopened following a 60-month closure while a hearing or a decision by the Hearings Officer is pending.

The Hearings Officer may reverse the decision of the Extension Committee and grant an extension of up to 6 months, or he may rule that the Committee must reconsider the request.

The client also has the right to a Fair Hearing when the reconsideration results in denial of an extension. The Hearings Officer may rule that the extension was denied in error and instruct the local office to extend benefits or reopen the case for the appropriate extension period.