



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

January 29, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 22, 2007. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the WV Works assistance check Program.

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 assistance check Program is based on current policy and regulations. Some of these regulations state as follows: there is a lifetime limit of 60 months that a family may receive cash assistance under TANF and/or WV Works (WV Income Maintenance Manual Section 15.6 A).

The information which was submitted at your hearing revealed that you received at least 60 months of cash assistance under the TANF and/or WV Works Program.

It is the decision of the State Hearings Officer to **uphold** the action of the Department to deny your application for the WV Works assistance check Program.

Sincerely,

Thomas M. Smith
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Eric Dotson, Dept. Hearing Rep.
[REDACTED] Claimant's Representative

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

Claimant,

Action Number: 07-BOR-561

**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 January 22, 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 January 22, 2007 on a timely appeal, filed January 5, 2007.

It should be noted here that the claimant's benefits have been denied pending a hearing decision.

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:

1. _____, Claimant.
2. _____ Claimant's Representative
3. Eric Dotson, Family Support Supervisor.

Presiding at the Hearing was Thomas M. Smith, 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 took the correct action to deny the application for the WV Works assistance check Program due to 60 month lifetime limit.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 15.6.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHHR-1a & b Copy of case summary (2 pages).
- DHHR-2 Copy of notification letter dated 11-3-06 (2 pages).
- DHHR-3 Copy of notification letter dated 2-2-04 (2 pages).
- DHHR-4 Copy of regulations from WV Income Maintenance Manual Section 15.6.
- DHHR-5 Copy of WV Works (TANF) issuance history (10 pages).

Claimants' Exhibits:

None.

VII. FINDINGS OF FACT:

- 1) The claimant received cash assistance (TANF benefits) under the WV Works Program for the following months: April, 1997; May, 1997 through March, 1998; July, 1998 through August, 1998; March, 1999 through April, 1999; September, 1999 through December, 1999; September, 2000 through April, 2003; and June, 2003 through February, 2004 (Exhibit #DHHR-5).
- 2) The claimant received at least 65 months of TANF benefits.
- 3) Notification of case closure was issued to the claimant on 2-2-04 effective February, 2004 due to receiving 60 months of benefits which was the maximum allowable period of time (Exhibit #DHHR-3).

- 4) The claimant's TANF benefits were discontinued effective February, 2004 due to expiration of the 60 month time limit for receiving TANF benefits.
- 5) The claimant reapplied for TANF benefits on 11-2-06 and was denied due to having received the 60 month time limit for benefits and a denial letter was issued on 11-3-06 (Exhibit #DHHR-2).
- 6) The claimant requested a hearing on 1-5-07.
- 7) Ms. [REDACTED] purported that the claimant's SSI started in October, 2002, that she has a mental disorder as she is bipolar, that she did not understand the letters sent to her explaining the expiration of the 60 month time limit and procedures to appeal, that she is raising two (2) teenage girls on \$623 a month and needs a TANF check only for her daughters.
- 8) Mr. Dotson purported that if Ms. _____ had been receiving SSI benefits when the 60 month time limit expired, the TANF check would have continued for her children but that Ms. _____ was not receiving SSI benefits when the case was closed in February, 2004, that her first SSI check was received in March or April of 2005, that her date of disability may have been backdated to October, 2002 but has no bearing on her case, that the appropriate notices were sent and a meeting was held with Ms. _____ to explain the 60 month time limit.
- 9) The areas of dispute involved whether the claimant's receipt of SSI benefits backdated to October, 2002 qualified her to receive TANF benefits for her children and whether the claimant did not understand the 60 month time limit at the time the case was closed. The State Hearing Officer finds that the backdating of the claimant's SSI benefits and disability to October, 2002 is irrelevant to the closure of the TANF case due to the 60 month time limit. The claimant was not receiving SSI benefits at the time of case closure and had not established a disability prior to the closure of the case due to the 60 month time limit. In regard to her not understanding the 60 month time limit, the State Hearing Officer finds that there is no policy addressing whether an individual has good cause for not appealing the 60 month time limit. Thus, the argument of not understanding the 60 month time limit is also irrelevant.

VIII. CONCLUSIONS OF LAW:

- 1) Regulations in WV Income Maintenance Manual Section 15.6 A state that there is a lifetime limit of 60 months that a family may receive cash assistance under TANF and/or WV Works. The Department has shown that the claimant received TANF benefits for at least 65 months.
- 2) Regulations in WV Income Maintenance Manual Section 15.6 A state that 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. The claimant was a member of the benefit group.

- 3) Regulations in WV Income Maintenance Manual Section 15.6 A state that 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 children for whom the claimant has applied for TANF benefits are residing with the claimant and are not eligible.
- 4) Regulations in WV Income Maintenance Manual Section 15.6 C, 1 state that once an AG is closed due to receipt of TANF benefits for 60 months, every application that includes the individual who received benefits as an adult or emancipated minor for 60 months is denied and no extensions are approved after AG closure for this reason unless the applicant is a victim of domestic violence. There was no evidence or testimony provided during the hearing to show that the claimant met the criteria of being a victim of domestic violence.
- 5) Regulations in WV Income Maintenance Manual Section 15.6 C, 4 state that individuals who are disabled can receive a six (6) month extension if the disability is established prior to the 60th month of benefits. While the claimant's SSI disability was backdated to October, 2002, it was not established prior to the 60th month of benefits.

IX. DECISION:

It is the decision of the State Hearing Officer that the Department took the correct action to deny the application dated 11-2-06 due to the claimant receiving the 60 month lifetime limit of TANF benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of January, 2007.

Thomas M. Smith
State Hearing Officer