



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 468
Hamlin, WV 25523

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 15, 2009

----- and -----

Dear -----and -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 12, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to deny your request for a six (6) month extension of your WV Works Cash Assistance eligibility.

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 WV Works Cash Assistance is based on current policy and regulations. Some of these regulations state as follows: For extension purposes, both parents must meet specific criteria in order for the AG to be eligible for an extension. (WV Income Maintenance Manual Section 15.6.C)

The information which was submitted at your hearing failed to show that your Assistance Group (AG) met the specific criteria necessary for approval of the extension at the time of your request.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your request for an extension of your WV Works Cash Assistance eligibility.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Sandra Lorrison, [REDACTED] DHHR

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

----- and -----,

Claimant,

v.

Action Number: 08-BOR-2639 - WWV

**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 March 12, 2009 for ----- and ----- . 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 March 12, 2009 on a timely appeal, filed December 19, 2008.

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 and 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 #1

Sandra Lorrison, Department Representative

Presiding at the hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

It should be noted that Claimant #2, -----, was not present for this hearing. The Claimants separated in February 2009 due to a domestic violence issue.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department is correct in their decision to deny your December 2008 request for an extension of WV Works Cash Assistance eligibility.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 15.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Income Maintenance Manual Section 15.6 A
- D-2 WV Income Maintenance Manual Section 15.6 C
- D-3 Notification letter dated December 18, 2008

Claimant's Exhibits

- C-1 Letter from ----- and ----- dated December 12, 2008
- C-2 Notice of Hearing from Family Court of ██████ County
- C-3 Order of Protection from ██████ County Family Court
- C-4 Petition for Divorce from Family Court of ██████ County

VII. FINDINGS OF FACT:

- 1) The Claimants were actively receiving WV Works Cash Assistance benefits as a two person household during the month of December 2008 when they requested an "extension" of benefits beyond the sixty month (60) lifetime limit for receipt of benefits. They were scheduled to receive their sixtieth payment during the month of January 2009. She states the reason they requested the extension was due to her disability and the need for her husband to stay home and care for her.

- 2) The Department Representative stated that she submitted their request for extension to the State Office for consideration and it was denied. The State Office indicated the Claimants failed to meet any of the circumstances under which an extension may be granted as outlined in WV Income Maintenance Manual Chapter 15.6.C.
- 3) The Department sent the Claimants a notification letter (D-3) which includes the following pertinent information:

Your application for an extension of WV Works benefits past the 60 month limit has been denied.

Here is Why: You do not meet any of the circumstances under which an extension may be granted.

Policy from the Income Maintenance Manual: Chapter 15.6.C

- 4) Claimant #1 stated she understands and agrees with the Department's policy that she is not eligible for an extension based on the disability issue; however, she submitted evidence (C-2) to show she applied for a restraining order against her husband (Claimant #2) on February 2, 2009 citing domestic violence issues. She contends these issues were present in her home during December 2008 when she requested an extension of benefits from the Department, and should be considered. She reported the domestic violence information to the Department during the month of February 2009.
- 5) The Department contends that they were not aware of the domestic violence situation when the determination was made, and the information submitted for review in December 2008 does not qualify the Claimants for an extension.
- 6) WV Income Maintenance Manual Section 15.6.C states in pertinent part:

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 parent who is disabled; and
- The caregiver would normally be required to meet a work requirement; and
- Is needed at home to care for a disabled family member who resides in the home and is not a full-time student; and
- Medical documentation must be provided to support the need for the parent to remain in the home to care for and monitor the disabled family member; 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 HCB or MR/DD waiver.

7) WV Income Maintenance Manual Section 15.6C.1 states in pertinent part:

PROVISIONS FOR AN EXTENSION OF THE TIME LIMIT

Once n 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.

C.1. Battered Or Subjected To Extreme Cruelty

Note: An extension based solely or in part on these 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.

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, including threats; 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that specific criteria must be met in order for a two person household to qualify for an extension of WV Works Cash Assistance past the sixty (60) month lifetime limit. The Claimants indicated in their request that Claimant #1 was disabled and needed Claimant #2 in the home to care for her. The Department determined they did not meet the criteria necessary for approval of an extension. Claimant #1 agreed with the policy indicating they did not meet this specific criteria, but claims that because of the domestic violence issues she should have been approved.
- 2) Policy allows for exceptions to be made when domestic violence issues are present. However, in this particular situation, Claimant #1 failed to inform the Department of any such issues when the December 2008 request for extension was made.
- 3) Although it is clear from the evidence that domestic violence issues exist in this case, there is no clear evidence to suggest that the domestic violence issues were present and reported in December 2008 when the request for extension was made
- 4) Therefore, the Department was correct in its December 2008 determination that the Claimants were not eligible for an extension of WV Works Cash Assistance benefits past the sixty (60) month lifetime limit.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is **upheld** in their decision to deny the Claimant's request for extension of the WV Works Cash Assistance benefits past the sixty (60) month lifetime limit.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 15th Day of April, 2009.

**Cheryl Henson
State Hearing Officer**