



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

June 16, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 16, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for a second (2nd) extension of your sixty (60) month lifetime limit for WV WORKS cash assistance because you asked for this extension after the sixtieth (60th) month of eligibility. Your request for hearing also includes the Department's denial that it received a Low Income Energy Assistance Program (LIEAP) application from you for processing during the month of November 2009.

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 and benefit levels for WV WORKS and LIEAP are based on current policy and regulations. Some of these regulations state that for WV WORKS, a temporary extension of up to six (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. (West Virginia (WV) Income Maintenance Manual §15.6) For LIEAP, there is no policy that requires the Department to process an application that it has not received.

The information submitted at your hearing reveals that although you originally applied for your (2nd) extension of your 60 month lifetime limit during your sixtieth (60th) month of eligibility for WV WORKS cash assistance, an exemption of up to six (6) months may be given only once, at the time the extension is approved, unless the extension is based wholly or in part on domestic violence. There was no evidence to support that domestic violence was involved. In regard to the issue of your LIEAP application, there is insufficient evidence to support that you submitted an application for this program during the month of November 2009.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for a second (2nd) extension of your WV WORKS cash assistance pending proper notification. The Department is also **upheld** in its decision that no LIEAP application was received during the month of November 2009 for processing.

Sincerely,

Cheryl Henson, State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Thomas Morsi, [REDACTED] DHHR

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

-----,

Claimant,

v.

**Action Number: 10-BOR-1358 WV WORKS
10-BOR-1359 LIEAP**

**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 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 June 16, 2010 on a timely appeal filed February 26, 2010.

II. PROGRAM PURPOSE:

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited Program that emphasizes employment and personal responsibility. The goals of WV WORKS are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by promoting self-sufficiency, and structure assistance to emphasize employment and personal responsibility.

The goal of the Low Income Energy Assistance Program (**LIEAP**) is to provide financial assistance to eligible households that are affected by rising costs of home heating which are excessive in relation to household income. It is not the purpose of this program to meet the entire cost of home heating during the winter season. Instead, the program is designed to partially offset the continuing rise in costs of home heating.

III. PARTICIPANTS:

-----, Claimant

Thomas Morsi, Family Support Specialist, Kanawha DHHR

Barbara Polen, Family Support Specialist, Kanawha DHHR

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

IV. QUESTIONS TO BE DECIDED:

The questions to be decided are whether the Department was correct in its decision to deny the Claimant's second (2nd) request for an extension of her sixty (60) month lifetime limit for WV WORKS cash assistance because she requested the extension after her sixtieth (60th) month of eligibility, and whether the evidence shows Claimant submitted an application for LIEAP for processing during the month of November 2009.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §15.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification letter to Claimant - undated
- D-2 Email conversations between the local office and the Extension Committee
- D-3 Case comments from RAPIDS computer system
- D-4 WV Income Maintenance Manual Section 15.6

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving WV WORKS cash assistance during the month of January 2010 based on a first (1st) request extension of three (3) months past her lifetime limit of sixty (60) months eligibility when the Department at some point sent her an undated denial notice (D-1) which includes the following pertinent information:

-----your request for an extension of TANF benefits past the 3 month extension you were granted has been denied. February will be the last month you will receive TANF as you have reached the lifetime limit of 60 months. The reason your extension request was denied is because you cannot ask for an extension past the 60th month. This request wasn't received until after the 60th month was received.

- 2) The Department's representative, Thomas Morsi, testified that he became involved with the Claimant's case after her first request for an extension was approved. He explained that originally the Claimant had requested a six month extension to allow her to graduate by December 2009. This first (1st) request was approved for three (3) months and expected to expire in February 2010. He went on to say that the Claimant submitted a second (2nd) written request for extension in January 2010 because she had become aware that she would now not be graduating until December 2010. Mr. Morsi added that this request was subsequently denied (D-1, D-2) by the Committee because the Claimant requested the extension past the sixtieth (60th) month of eligibility. He explained that the Claimant's sixtieth (60) month of eligibility occurred in November 2009.
- 3) The Claimant testified that she originally asked for the hearing during her November 2009 case review with Barbara Polen (D-3). She added that she discussed the situation with Ms. Polen during the interview and asked for a second (2nd) extension at that time, explaining to her that she had become aware that she was now required to complete a two hundred (200) hour internship prior to graduating.
- 4) The Claimant contends that she was doing everything she was supposed to be doing for the Department and that she requested the extension timely during her November 2009 review interview. She contends the Department was not correct in its decision to deny her second request for this reason.
- 5) Testimony from Barbara Polen, the worker who interviewed the Claimant during the November 2009 case review, supported the Claimant's testimony that she requested the second (2nd) WV WORKS extension at that time. Ms. Polen testified that she explained to her at that time that she would need to start gathering certain information that would be needed; however, there is no evidence this request was followed up on by the Department. The Claimant again requested the extension in January 2010 by submitting a written request. This January 2010 request was denied by the Department based on a lack of timeliness.
- 6) In regard to the LIEAP application, the Claimant testified that she completed an application for this program of assistance during the November 2009 case interview with Ms. Polen. She testified that she thought that the worker entered the information for LIEAP in the computer during this interview. She had no written evidence to support that she submitted a LIEAP application at this time.
- 7) The Department representative testified that he checked all the Department's logs to determine if the LIEAP application had been logged in as having been received, but found no evidence of this. He added that the Department logs all mail into a central data collection system in order to track all documents submitted to it. In addition, each individual Family Support Unit has systems set up for logging items received.
- 8) Ms. Polen testified that she does not recall the Claimant submitting a LIEAP application during the November 2009 interview. She added that had she been provided with this document during the interview, the information would have been entered into the computer at that time.

- 9) The Department representative also reviewed the case record file which showed the written documents completed during the Claimant's November 2009 interview. There was no LIEAP application in the file.
- 10) The West Virginia Income Maintenance Manual §15.6 states in pertinent part:

LIFETIME LIMIT FOR RECEIPT OF CASH ASSISTANCE (TANF, WV WORKS)

A. SIXTY-MONTH TIME LIMIT

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.

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.

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.

E. EXTENSION PROCEDURE

The process for determining if the AG is eligible for an extension 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.

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 WV WORKS Policy Unit.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that there is a sixty (60) month lifetime time limit for receipt of WV WORKS cash assistance. There is also a process in place for requesting a temporary extension of this time limit under certain circumstances.

- 2) Policy is clear in that a temporary extension of up to six (6) months may be given *only once* [my emphasis] 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.
- 3) The Claimant previously requested and received a temporary extension of three (3) months WV WORKS cash assistance. There is no evidence to support that domestic violence issues were involved in that request.
- 4) The Department's denial notice (D-1) for response to the second (2nd) request for extension was not accurate. It provides the reason for denial as being "because you cannot ask for an extension past the 60th month." The evidence clearly shows the Claimant originally requested this second (2nd) extension in November 2009, which is during her sixtieth (60th) month of eligibility. The Department was considering this request as having been made during the month of January 2010, based on the Claimant's latter written request.
- 5) In regard to the LIEAP issue, there is insufficient evidence to support that the Claimant submitted a LIEAP application to the Department for processing during the month of November 2009.
- 6) In light of the evidence, the Department was correct in its determination that the Claimant was not eligible for a second (2nd) extension of her WV WORKS cash assistance; however, the Department's notice to the Claimant was incorrect in regard to the reason for denial. The Department is upheld in this decision pending proper notification which provides the proper reason for denial. The Claimant was not eligible for a second (2nd) extension because policy precludes approval of more than one request for extension unless domestic violence issues are involved.
- 7) The Department is also not responsible for processing a November 2009 LIEAP application since there is insufficient evidence to support that one was submitted.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny the Claimant's second (2nd) sixty (60) month extension request, pending proper notification. Additionally, there is no evidence that a November 2009 LIEAP application was provided for the Department to process.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of June, 2010.

**Cheryl Henson
State Hearing Officer**