



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General**

**Board of Review**  
P.O. Box 1736  
Romney, WV 26757

**Joe Manchin III  
Governor**

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

June 29, 2010

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Dear -----,

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 28, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny your request for an extension of WV WORKS cash assistance beyond the 60-month lifetime limit.

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 are determined based on current policy and regulations. These regulations provide that there is a lifetime limit of 60 months in which a family can receive cash assistance under the WV WORKS program. An extension of benefits beyond the 60 month lifetime limit can be requested and forwarded to the Extension Committee of the Office of Family Support during the final five months of eligibility. Provisions which allow a family to receive an extension beyond the 60-month lifetime limit include that a recipient is battered or subject to extreme cruelty, providing care for a disabled relative, suffering from a late onset of incapacity, disabled, pregnant or caring for a child less than six months in age, or in a vocational or educational training activity. (WV Income Maintenance Manual Section 15.6)

The information which was submitted at your hearing revealed that you do not have a current application pending for disability benefits or are appealing a denial of a Social Security benefit claim. As a result, you do not qualify for an extension beyond the 60-month lifetime limit based on disability/incapacity policy.

It is the decision of the State Hearing Officer to Uphold the action of the Department to deny your request for an extension of WV WORKS benefits beyond the 60-month lifetime limit.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young Chairman, Board of Review  
Janell Johnson, FSS

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-1417**

**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 28, 2010 on a timely appeal, filed June 8, 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.

**III. PARTICIPANTS:**

-----, Claimant

-----, Claimant witness

Janell Johnson, Family Support Specialist (FSS)

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its decision to deny the Claimant's request for an extension of WV WORKS benefits beyond the 60-month lifetime limit.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 15.6

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1 West Virginia Department of Health and Human Resources (WVDHHR) Extension of 60-month Limit for Cash Assistance
- D-2 Electronic Mail Transmission of Extension Committee decision
- D-3 Facsimile Transmission from Social Security Administration
- D-4 West Virginia Income Maintenance Manual Chapter 15.6

##### **Claimants' Exhibits:**

- C-1 Potomac Highlands Guild, INC. Consumer Information Sheet

#### **VII. FINDINGS OF FACT:**

- 1) Claimant and her daughter are current recipients of WV WORKS cash assistance in the amount of \$301.00 per month. On July 31, 2010, the Claimant will have exhausted her 60-month lifetime limit of WV WORKS cash assistance.
- 2) Janell Johnson, Family Support Supervisor, testified that governing policy requires a 55-month case staffing to determine if the WV WORKS recipient is eligible for any provisions allowing a six-month extension to the established 60-month lifetime limit. Ms. Johnson testified that on February 18, 2010, a case staffing was conducted with the Claimant, the Claimant's friend, Linda Zalner (WV WORKS Case Manager) and Sue Radko (Community Service Manager). Based on the Claimant's circumstances at the time of the case staffing, the participants concluded that the Claimant may be eligible for an extension of benefits based on the disability provision.
- 3) On February 23, 2010, Linda Zalner, WV WORKS Case Manager, completed Exhibit D-1, WVDHHR Extension of 60-Month Limit for Cash Assistance and submitted the application to the Extension Committee of the Office of Family Support. Ms. Zalner documented in this exhibit that consideration for the extension request should be based on the Claimant's disability. Exhibit D-1 documents in pertinent part:

“----- is working with Legal Aid to get disability or SSI. She reports physical limitations for which she has received medical care. These are foot surgeries and abdominal surgeries which included a recent hysterectomy (late January

2010). -----'s main problems are psychiatric in nature. She has recently been told by policy that she must either start seeing a psychiatrist or check into a mental health unit."

- 4) The Extension Committee reviewed the extension request (Exhibit D-1) and requested verification of the Claimant's application for Social Security benefits or verification that the Claimant was in the process of appealing the denial of disability benefits with the Social Security Administration. On March 26, 2010, Ms. Zalner requested verification of the Claimant's application or appeal of SSI benefits, from the Social Security Administration. On the same date, Ms. Zalner received a facsimile transmission from the Social Security Administration notifying her that the Claimant had not filed an initial claim or was in the process of appealing any denial of a claim (Exhibit D-3).
- 5) On May 3, 2010, the Department received an electronic mail transmission from the Extension Committee (Exhibit D-2). This exhibit documents that the Claimant's request for an extension of the 60-month lifetime limit was denied as she did not meet any of the provisions outlined in the West Virginia Income Maintenance Manual Chapter 15.6. Specifically, the exhibit documents that the denial of the extension request was based on the Claimant not being in the process of attempting to obtain benefits from the Social Security Administration.
- 6) The Claimant testified that she has applied for disability benefits with the Social Security Administration several times over the last ten years. The Claimant indicated that her most recent application was submitted in February 2010, after the 55 month case staffing. The Claimant asserted that information received from the Department from the Social Security Administration was incorrect; however the Claimant supplied no documentation to corroborate her testimony and establish that she had applied for disability benefits.

The Claimant testified that her mental capacity does not allow her to maintain employment and she was in need of WV WORKS. -----, the Claimant's witness, testified that she provides counseling to the Claimant through the [REDACTED] ----- provided Exhibit C-1, [REDACTED] Consumer Information Sheet which documents that the Claimant suffers from paranoid schizophrenia, bipolar disorder, anxiety, and post traumatic stress disorder. Ms. Johnson indicated that the Department evaluated the Claimant's conditions when determining a work placement for the Claimant with the WV WORKS program and the Claimant's medical diagnoses were forwarded to the Medical Review Team, which determined that the Claimant was mentally incapacitated and unable to participate in any work requirement.

- 7) West Virginia Income Maintenance Manual Chapter 15.6 states in pertinent part:

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.

## 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.

Once an extension is approved, the client must continue to 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, such as pursuing other resources. 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. Once the case is closed and the extension ends for failing to meet these requirements, the household is no longer eligible for the extension. The Worker must document the closure and notify the Family Support Policy Unit.

Basis for Consideration of an extension of 60-month limit for case assistance

- Battered or subject to extreme cruelty
- Providing care for relative
- Late onset of incapacity
- Disabled

Disabled is defined as unable to engage in gainful employment, as determined by a medically qualified professional.

Because WV WORKS clients must be referred to MRT if unable to participate for longer than a 6 month period 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. The Worker must complete the MRT application and evaluation as soon as possible before reaching the 60<sup>th</sup> month. An SSI denial based on failure to establish a disability does not automatically preclude an extension on this basis if MRT finds the individual to be disabled. However, the individual must be actively appealing his SSI denial to qualify for an extension. If the individual has been found to be disabled by MRT and his re-evaluation is due before his 60<sup>th</sup> month of benefit receipt, his case must be submitted for a re-evaluation by MRT. WV WORKS participants who have a documented disability must be placed in the AD component in Work Programs in addition to other component codes. 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 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 and must be referred to the Division of Rehabilitation Services for a vocational evaluation and assessment.

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 6 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 the extension period and the decision again finds the individual unable to participate, the extension will continue up to 6 months. In this situation, if the extension is continued longer than initially approved by the committee, the Worker must detail the reason for extending the months in case comments, notify the 60-Month Extension Committee for approval, and adjust the appropriate number of months to ANLM, not to exceed 6. During the extension period, the Worker must monitor the case to make sure the client continues to meet all other eligibility requirements.

-Pregnancy/Age of Child

-In a vocational training/educational activity

## **VIII. CONCLUSIONS OF LAW:**

- 1) Policy dictates that adults and emancipated children who receive cash assistance under TANF and/or WV WORKS are subject to a lifetime limit of 60 months of receipt of such assistance. There are provisions in policy wherein an individual may qualify for an extension of up to six additional months. An individual's disability is a provision in which an extension may be granted, if the recipient is actively applying for disability benefits with the Social Security Administration or currently in the process of appealing a denial of Social Security benefits with the Social Security Administration.
- 2) The evidence reveals that information relayed to the Department from the Social Security Administration indicated that the Claimant had made no initial claims for Social Security benefits or that she was not actively appealing a denial to any benefit claim. The Claimant did not supply any evidence to establish that any such application for disability benefits had been submitted to the Social Security Administration; therefore the Claimant did not meet policy requirements and does not qualify for an extension under the disability provision as outlined in policy.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny the Claimant's request for an extension of WV WORKS benefits beyond the 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 \_\_\_\_\_ day of June 2010.**

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**Eric L. Phillips  
State Hearing Officer**