



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Joe Manchin III
Governor

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

February 11, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 26, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for WV WORKS benefits 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 the WV WORKS program are determined based on current regulations. One of these regulations specifies that there is a lifetime limit of 60 months that a family can receive assistance under TANF or WV WORKS. An extension of benefits beyond the 60-month limit can be requested and forwarded to the OFS Extension Committee during the final five months of eligibility based on any one of seven specified circumstances found in policy. Among the reasons for which an extension can be granted is if the WV WORKS recipient is enrolled or attending an education activity by the 55th month. (WV Income Maintenance Manual Section 15.6)

The information submitted at your hearing reveals that you were neither enrolled nor planning to enroll in an educational activity by the 55th month of benefit receipt. As a result, you do not qualify for an extension beyond the 60-month lifetime limit based on the vocational/educational provision in policy.

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

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Pamela Babinchok, FSS, DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-2211

**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 February 11, 2010 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 26, 2010 on a timely appeal filed November 5, 2009.

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's mother/witness

Pamela Babinchock, Family Support Specialist (FSS), DHHR

Valerie Wells, Family Support Supervisor, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Agency was correct in its decision to deny the Claimant's request for an extension of WV WORKS benefits beyond the sixty (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 Notice of Decision dated 9/28/09
- D-2 WV Income Maintenance Manual, Chapter 15.6,A (page# 30)
- D-3 WV Income maintenance Manual, Chapter 15.6,C (page# 32)
- D-4 WV Income Maintenance Manual, Chapter 15.6, E (page# 38b)
- D-5 Case Comments for period 7/16/09 – 11/2/09
- D-6 WV Income Maintenance Manual, Chapter 15.6, E (page# 38c)
- D-7 Denial of Extension of WV WORKS dated 10/22/09
- D-8 E-mail from Pamela Babinchok on October 21, 2009 inquiring on the status of the 60-month extension
- D-9 E-mail response to Pamela Babinchok regarding the 60-month extension request
- D-10 WV Income Maintenance Manual, Chapter 15.6,C.6 (page# 38)

VII. FINDINGS OF FACT:

- 1) Testimony presented by the Department of Health and Human Resources' (Department) representative, Pamela Babinchok, reveals that an individual can only receive WV WORKS benefits for a lifetime limit of 60 months. While there are provisions in policy to allow for up to a 6-month extension, certain conditions must exist before an extension can be granted.
- 2) As a matter of record, both parties acknowledged that the Claimant was pursuing a career in child care, and pending employment at her placement, when she received her 55th month of WV WORKS benefits. The Claimant's background check subsequently prevented her from securing employment as a child care provider.
- 3) The Claimant received her 58th month of WV WORKS benefits in August 2009 but her case was subsequently closed effective August 31, 2009 when she failed to appear for her case review.

- 4) The Claimant returned to the Department on September 1, 2009 to reapply for WV WORKS benefits and disclosed that she had not attended her child care placement since mid-July. Because the Claimant had only two (2) months of eligibility remaining, she was placed in a “SPOKES” program that involves intensive job search. The Claimant regained eligibility by meeting participation requirements and was approved for WV WORKS during the months of September and October 2009 – her 59th and 60th month.
- 5) The Department presented evidence (D-5) to indicate the Claimant verified she had enrolled in a class at [REDACTED] on September 24, 2009. Because the Claimant was only two (2) credits short of completing her Bachelor’s Degree, she could complete the course at [REDACTED] and only need one (1) class from a four (4) year institution to complete her Bachelor’s. As a result, a request was submitted for an extension of her WV WORKS benefits beyond the 60-month lifetime limit based on attending an educational activity. Ms. Babinchok testified that she knew it was “a long shot” but thought she should put it before the Extension Review Committee.
- 6) On or about October 22, 2009, the Claimant was notified (D-7) that her request for a WV WORKS benefit extension was denied. This notice states, in pertinent part:

Your request for an extension of the 60-month TANF lifetime limit has been denied effective 10/22/09.

Here is why:

You must have been enrolled or attending a vocational training or educational activity by your 55th month of cash assistance.

- 7) WV Income Maintenance Manual, Chapter 15.6.A, states that 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.
- 8) WV Income Maintenance Manual, Chapter 15.6.C states, in pertinent part:

There are provisions which may allow a family to receive benefits for more than 60 months.

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.

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.

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.

A single parent household in which the parent meets one of the following criteria is eligible to be considered for an extension of the 60-month time limit. Among the provision in policy for which an individual can be granted an extension is if they are in a vocational training/educational activity on disability. (See WVIMM, Chapter 15.6,C.6)

- 9) The WV Income Maintenance Manual, Chapter 15.6,C.6 states that an extension of WV WORKS benefits can be approved if the individual is attending 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that there is a lifetime limit of 60 months for adults and emancipated children who receive cash assistance under TANF and/or WV WORKS. There are provisions in policy wherein an individual can qualify for an extension up to six (6) additional months. Among the reason for which an extension can be granted is if the individual is enrolled to begin or presently attending an educational activity.
- 2) The evidence reveals the Claimant was neither enrolled nor attending an educational activity in her 55th month. While there was evidence of a personality dispute between the Ms. Babinchok and the Claimant, the fact remains that the Claimant did not meet policy requirements, and therefore did not qualify for an extension under the education/vocation provision.

IX. DECISION:

After reviewing the information presented during the hearing, and the applicable policy and regulations, I am ruling 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 11th Day of February, 2010.

**Thomas E. Arnett
State Hearing Officer**