



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

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

June 12, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held June 12, 2012. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for WV WORKS cash assistance extension payments past June 2012.

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 in which a family can receive assistance under Temporary Assistance for Needy Families (TANF) or WV WORKS. An extension of benefits beyond the 60-month limit can be requested based on any one of eight (8) specified circumstances found in policy. Among the reasons for which an extension can be granted is if the WV WORKS recipient is satisfactorily progressing in vocational training or an educational activity. To be eligible for an extension when there are two parents in the household, each parent must meet the requirements under one of the requirements of an extension criteria outlined in this chapter. (WV Income Maintenance Manual Section 15.6 C)

Information submitted at your hearing shows that your household does not meet the specific criteria to be eligible for WV WORKS cash assistance extension payments past June 2012.

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny your request for WV WORKS cash assistance extension payments past June 2012.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Heidi Parworth, [REDACTED] DHHR

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

IN RE: -----,

Claimant,

v.

Action No.: 12-BOR-1197

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. The hearing was convened on June 12, 2012.

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 witness

Heidi Parworth, Department representative

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency was correct in its decision to deny the Claimant's request for WV WORKS cash assistance extension payments past June 2012.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 15.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification letter dated May 13, 2010
- D-2 Notification letter dated November 23, 2010
- D-3 Case Comments from Department's computer system dated January 24, 2011
- D-4 Email correspondence dated January 12, 2011
- D-5 Department's computer screen regarding WV WORKS months of receipt
- D-6 Participant time sheet for month of December 2010
- D-7 Department's computer screen regarding letter history

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) On or about November 9, 2011, the Department mailed the Claimant a letter (D-1) explaining that she was nearing her sixty (60) month time limit for receipt of WV WORKS and that if her family was experiencing certain circumstances she might qualify for an extension to her sixty (60) month limit for receipt of WV WORKS cash assistance. The letter explained that to be considered for an extension, she must complete the form by checking the reasons she was requesting an extension and signing the form. No deadline was provided on the form.
- 2) The Claimant stated that she did not receive the form (D-1) originally, but that she eventually requested the extension by visiting the ██████████ County, West Virginia, Department of Health and Human Resources (DHHR) office. Office records (D-2) show that the Claimant requested the extension on April 9, 2012. Her WV WORKS cash assistance was scheduled to end after April 2012. The Claimant stated that she completed the request form (D-3) indicating that she was in an educational activity and scheduled to graduate from nursing school on May 13, 2012. She did not indicate or claim any special needs for her husband, who was also included in the

WV WORKS cash assistance at that time. It should be noted that the household is considered a two-parent household for WV WORKS cash assistance purposes.

- 3) The West Virginia Department of Health and Human Resources' Income Maintenance Manual §15.6 provides that for a two-parent household, both parents must meet one of the following criteria for the AG (Assistance Group) to be eligible for an extension past the sixty (60) month limit for receipt of WV WORKS cash assistance:
 1. Battered or Subjected to Extreme Cruelty
 2. Providing Care for a Relative
 3. Late Onset of Incapacity
 4. Disabled
 5. Pregnancy/Age of Child
 6. In a Vocational Training/Educational Activity
 7. Agency Error
 8. Vance v. Nusbaum
- 4) The Department originally denied the Claimant's request for an extension because her husband did not show evidence that he met any of the criteria under which an extension may be granted; however, the Department subsequently approved the Claimant for an extension for May and June 2012 based on the information provided by the Claimant regarding her husband's medical issues interfering with his ability to work. Case comments (D-2) in the Department's computer system indicate that during May 2012 the Department was considering whether the Claimant's husband could meet criteria based on his medical issues.
- 5) On or about May 30, 2012, the Department denied further extensions past June 2012 because the Claimant graduated from college in May 2012. The Department then discontinued its efforts to determine if the Claimant's husband met medical eligibility criteria, reasoning that both must meet criteria and the Claimant no longer met eligibility criteria after she graduated from nursing school in May 2012.
- 6) The Claimant contends that she should be approved for further payments past June 2012 because she has not taken or passed a state test which is required for her to work in the nursing field. She stated that the test costs two hundred dollars (\$200.00), and she cannot afford to pay this fee out of her own funds. The Department approved a support payment to cover the cost of the test on or about June 8, 2012, but the Claimant has not received it as yet. The Claimant contends that she cannot schedule the test until she has the money and she cannot work until all these things take place.

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 through WV WORKS. There are provisions in policy wherein households may qualify for an extension of up to six (6) additional months. For two-parent households, both parents must meet one of eight (8) specific criteria for an extension to be possible.

- 2) The Claimant received a two (2) month extension of WV WORKS cash assistance to allow her to complete her education. She graduated during May 2012 and received an extension for May and June 2012 WV WORKS cash assistance. She no longer meets any of the criteria for which an extension may be granted past June 2012. Although it is possible that the Claimant's husband may have met criteria based on his medical situation past June 2012, because his wife no longer meets the criteria it is not possible for the family to be eligible for further extensions.
- 3) Because policy states that both parents in a two-parent household must meet one of eight (8) particular criteria in order to be eligible for an extension, the Claimant's household is not eligible for an extension past June 2012.

IX. DECISION:

After reviewing the information presented during the hearing, and the applicable policy and regulations, it is the decision of the State Hearing Office to **uphold** the Department's action in denying WV WORKS extension payments past June 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of June 2012.

**Cheryl Henson
State Hearing Officer**