



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

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

October 9, 2012

Dear Mr. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 3, 2012. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for an extension of 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 for which a family can receive assistance under TANF (Temporary Assistance to Needy Families) 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 attending, or enrolled to begin, a vocational training/educational activity in his 55th month. (West Virginia Income Maintenance Manual Section 15.6)

Information submitted at your hearing fails to demonstrate that you qualified for an extension of WV WORKS cash assistance beyond the 60-month lifetime limit, as you were not attending, or enrolled to begin, a vocational training/educational activity in your 55th month of TANF receipt.

It is the decision of the State Hearing Officer to **uphold** the Department's action 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
Pam Everly, FSS, DHHR

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

Claimant,

v.

Action Number: 12-BOR-2002

**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 convened on October 3, 2012, on a timely appeal filed August 8, 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

Pam Everly, Family Support Specialist (FSS), Department representative

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 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 § 15.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHS-1 West Virginia Income Maintenance Manual §15.6.F

DHS-2 Request for Extension of 60-Month Time Limit – mailed to Claimant on 2/15/12

DHS-3 Notice of 55th month case staffing - scheduled on 2/29/12

DHS-4 WVDHHR Referral for Training/Services – signed 2/29/12

DHS-5 WV WORKS – Personal Responsibility Contract – signed 2/29/12

DHS-6 Request for Extension of 60-Month Time Limit – signed by Claimant on 6/29/12 – received by the Department on 7/2/12

DHS-7 WVDHHR Extension of 60-Month Limit For Cash Assistance (DFA-EX-1) – completed by Pam Everly on 7/9/12

DHS-8 Notice of Denial – dated 7/27/12

DHS-9 West Virginia Income Maintenance Manual §15.6.C.6

VII. FINDINGS OF FACT:

- 1) On or about July 27, 2012, the Claimant was notified that his request for an extension of WV WORKS benefits beyond the 60-month lifetime limit was denied. This notice indicates that the Claimant did not meet any of the circumstances under which an extension may be granted, as outlined in Chapter 15.6.C of the West Virginia Income Maintenance Manual.
- 2) Respondent, represented by Pam Everly, a Family Support Specialist, purported that Claimant attended a meeting in the Respondent's [REDACTED] WV, office on February 29, 2012, pursuant to Exhibit DHS-3. As a matter of record, Claimant received his 55th month of WV WORKS cash assistance benefits in February 2012 and a formal case review was conducted in accordance with regulatory requirements found in the West Virginia Income Maintenance Manual §15.6.D.
- 3) Claimant's Personal Responsibility Contract (PRC) was updated to reflect his agreement to cooperate and participate in the Employment Subsidy Program (ESP). Claimant's February 29, 2012 signature can be found on Exhibit DHS-4 (Referral for Training /Services) and DHS-5 (PRC).

- 4) Ms. Everly proffered testimony to indicate she became aware that Claimant was interested in attending an online vocational training program on April 25, 2012. Claimant was reportedly advised of a program offered through ----College that would provide him training to be a natural gas plant operator. Ms. Everly purported that she assisted the Claimant by securing a voucher for payment of a computer, printer, router, paper and printer cartridge. Ms. Everly also worked with the administration at ----College to receive approval of a Job Skills Contract to pay the remaining \$595 costs to ----College that the Claimant's \$2,000 grant did pay. However, Ms. Everly testified that the Claimant's request for an extension of WV WORKS beyond the 60-month lifetime limit was not received from the Claimant until July 2, 2012. Ms. Everly noted that she submitted the Claimant's request for an extension beyond the 60-month limit (DHS-7) to the Office of Family Support (OFS) Extension Committee on July 9, 2012.
- 5) Claimant acknowledged that he was not attending, or enrolled to begin, a vocational/educational activity in February 2012. However, the Claimant contends that Ms. Everly was advised of his interest to attend the online natural gas power plant operator course on March 29, 2012, and she did not immediately submit a request for his extension. Claimant believes that pursuant to the West Virginia Income Maintenance Manual §15.6.C.7., that his request is still eligible for approval between the 55th and 60th month based on an agency error.
- 6) West Virginia Income Maintenance Manual §15.6.A, states that there is a lifetime limit of 60 months in which 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.
- 7) West Virginia Income Maintenance Manual §15.6.C states, in pertinent part:

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 Assistance Group (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 provisions in policy for which an individual can be granted an extension is they are in a vocational training/educational activity. (See WVIMM, Chapter 15.6.C.6)

- 8) West Virginia Income Maintenance Manual §15.6.C.6 states:

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.

Vocational training is preparation for a specific occupation. The training is conducted by an instructor in a non-work site or classroom setting.

Educational activities are limited to literacy programs, high school, ABE, vocational, and 2- and 4-year college programs. They do not include online courses.

When the person who is participating in the training/educational activity has a disability which is affecting their ability to make progress or extending the time necessary for them to complete the program, this must be considered when granting an extension. If it is determined the individual is progressing more slowly due to the disability, an extension will be granted. The participant is not required to graduate from the program within or by the end of the extension period.

The extension remains in effect for up to 6 months. The Worker is responsible for monitoring the attendance of the participant during the extension period. Should their enrollment end, the Worker must send notification and close the WV WORKS benefit.

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.

9) West Virginia Income Maintenance Manual §15.6.C.7 (Agency Error) states:

The 60-Month Extension Committee only may approve an extension based on agency error if during the extension request process either the local office or the 60-Month Extension Committee does not act in a timely manner. This must occur between months 55 through 60. No repayment required if extension is not approved. This extension is limited to three months.

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 the TANF and/or WV WORKS Program. There are provisions in policy wherein an individual can qualify for an extension of up to six (6) additional months. Among the reasons for which an extension can be granted is if the individual is attending or enrolled to begin a vocational/educational activity in the 55th month of receiving TANF and/or WV WORKS. The 60-Month Extension Committee may only approve an extension based on agency error if during the extension request process either the local office or the 60-Month Extension Committee does not act in a timely manner. This must occur between months 55 through 60.
- 2) The Claimant's argument that an error was committed by the agency because his worker did not immediately submit his case for an extension, whether in March or April 2012, has no merit. There is no evidence to indicate the Claimant was attending, or enrolled to begin a vocational/educational activity, in February 2012 when his 55-month case staffing was completed.
- 3) Based on the evidence, the Department was correct in its action to deny the Claimant's request for an extension of WV WORKS cash assistance beyond the 60-month lifetime limit.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's action in denying 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 October 2012.

**Thomas E. Arnett
State Hearing Officer**