



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

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

February 1, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 20, 2011. 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 in which 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 experiences late onset of incapacity. (WV 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 based on the late onset of incapacity provision in policy.

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
Valerie Wells, FSS, DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-2252

**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 originally scheduled to convene on January 4, 2011 but was rescheduled at the request of the Department due to an unexpected illness. This hearing convened on January 20, 2010 on a timely appeal filed October 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

Brandy Burdette, 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 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 9/27/10
- D-2 Request for Extension of 60-Month Time Limit 6/9/10
- D-2a WVDHHR Extension of 60-Month Limit for Cash Assistance (DFA-EX-1) signed 7/15/10
- D-3 E-RAPIDS (Individual Comments for period 1/20/10 – 5/12/10
- D-4 Case Comments (RAPIDS) for period 7/12/10 – 1/4/11
- D-5 Correspondence from Monica A. Hamilton (Extension Review Committee) dated 8/19/10
- D-6 WV Income Maintenance Manual, Chapter 15.6.
- D-7 Social Summary Outline dated 9/22/10
- D-8 Medical Information Request (5/27/10) accompanied by a Physician's Summary received 6/18/10
- D-9 Physician notes / medication information from 8/3/09 - 7/02/10
- D-10 Medical Review Team Transmittal Memorandum 9/23/10

VII. FINDINGS OF FACT:

- 1) On September 27, 2010, the Claimant was notified (D-1) that her WV WORKS benefits would stop after November 2010. This notice states, in pertinent part – "You have reached 60 months of TANF/WV WORKS. No one can receive more than 60 months unless given an extension by the Extension Committee at the State Office. Your request for an extension was denied. You did not meet any of the criteria for an extension."
- 2) On July 12, 2010, the Department of Health and Human Resources, hereinafter Respondent, received the Claimant's request for an extension of WV WORKS benefits beyond the 60-month lifetime limit based on a late onset of incapacity or illness (D-2).

- 3) On or about July 15, 2010, a request was submitted to the Respondent's Extension Committee (D-2a) so that the Claimant could be considered for an extension. This document indicates (Section 8 and 9) the Claimant had received 56 months of benefits and that she will receive her 60th month of benefits in November 2010.

Section #31 states "Have requested her medical records to send to MRT but have not received anything from her doctors. I have told her this and asked her to ask the doctors directly to submit her information."

The last page of this document requires the worker to provide any additional information that may aid in making the extension decision, and states – "She has worked previously and has had most of these health issues for a while, even when employed. She was let go from her last job due to missing work for surgery. She was able to do the job but didn't have time built up to take off. We have received no medical documentation to substantiate a disability/incapacity. She was denied social security this year."

- 4) On August 19, 2010, the Respondent's Weirton office received an e-mail correspondence from ----(60-Month Extension Committee) indicating that the Extension Committee held her decision over to the following month as the Claimant needs to be evaluated by the Respondent's Medical Review Team (MRT) and she must apply for SSI at the Social Security Administration.
- 5) At the request of the Extension Committee, the Claimant was submitted to the MRT for a disability evaluation (D-7 and D-8), however, according to testimony provided at the hearing by both parties, the Claimant's physician was not forthcoming with medical documentation. In fact, the only medical evidence provided (D-8) is an incomplete Physician's Summary signed by [REDACTED] M.D., indicating she last saw the patient on 12-8-09 and 6-30-10. There is no information provided with regard to the Claimant's capabilities, limitations, length of time condition will last, or possible employment options. As a result, the MRT was unable to determine whether the Claimant was incapacitated. In correspondence from the Extension Committee (D-5) dated September 23, 2010, the Respondent's Weirton Office was advised that the Claimant's request for an extension of WV WORKS benefits beyond the 60-month lifetime limit was denied because she does not meet any of the circumstances under which an extension may be granted and she has not applied for SSI.
- 6) As a matter of record, the Claimant acknowledged she did not complete a new application for SSI until sometime in September 2010, however, there is no evidence to indicate the Respondent received verification of the Claimant's completed SSI application. The Claimant testified that she took forms to her doctor and asked that they be completed and returned to the Respondent but she does not know why the requested information was not returned.
- 7) WV Income Maintenance Manual, Chapter 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.

- 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 provisions in policy for which an individual can be granted an extension is if they experience late onset of incapacity. (See WVIMM, Chapter 15.6.C.3)

- 9) WV Income Maintenance Manual, Chapter 15.6.C.3 states that clients who experience the onset of a temporary incapacity after the 55th month of WV WORKS may qualify for a one-time extension of up to 6 months while undergoing treatment for the injury or illness. The Worker must obtain a decision of incapacity from MRT, and the decision must indicate that the individual will be able to engage in gainful employment following the period of incapacity. The MRT process must be started immediately upon receiving notice of the illness or injury so that a decision may be obtained from MRT before the client reaches his 60th month of benefits. Failure of the client to accept or continue treatment for the illness or injury before the extension begins will result in denial of the request. Failure to cooperate following the beginning of the extension period will result in case closure.

If it is determined by MRT or a doctor's report that the individual will be temporarily unable to engage in gainful employment for a period of time on or following his 60th month of eligibility, he may qualify for an extension of up to six 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 medical status of the client each month.

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 of up to six (6) additional months. Among the reason for which an extension can be granted is if the individual has a late onset of incapacity. The worker must obtain a decision of incapacity from MRT, and the decision must indicate that the individual will be able to engage in gainful employment following the period of incapacity. The MRT process must be started immediately upon receiving notice of the illness or injury so that a decision may be obtained from MRT before the client reaches his 60th month of benefits. If it is determined by MRT or a doctor's report that the individual will be temporarily unable to engage in gainful employment for a period of time on or following his 60th month of eligibility, he may qualify for an extension of up to six 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.
- 2) Medical evidence submitted in this case is insufficient to establish a finding incapacity or determine if the Claimant will be able to engage in gainful employment following the period of incapacity. Without a favorable finding by the MRT, an extension based on a late onset of incapacity cannot be granted by the Extension Committee. Based on the evidence, the Respondent was correct to deny the Claimant's request for an extension of WV WORKS benefits beyond the 60-month lifetime limit.

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 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 February, 2011.

**Thomas E. Arnett
State Hearing Officer**