



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

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

**Earl Ray Tomblin
Governor**

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

December 12, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 8, 2011. 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 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 failed to demonstrate that you qualify for an extension of WV WORKS cash assistance beyond the 60-month lifetime limit based on participation in a vocational activity.

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 lifetime limit.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Angela Gaither, Family Support Specialist

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-2281

**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 a timely appeal, filed September 6, 2011.

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 husband
Angela Gaither, Family Support Specialist

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 West Virginia Income Maintenance Manual Chapter 15.6
- D-4 Notice of Decision dated August 26, 2011
- D-5 Hearing Request

VII. FINDINGS OF FACT:

- 1) The Claimant, who was a recipient of WV WORKS cash assistance, previously received 57 months of her lifetime limit of cash assistance in August, 2011 and completed an application for an extension to the lifetime limit for cash assistance.
- 2) On August 16, 2011, Ms. Angela Gaither, Family Support Specialist, completed Exhibit D-1, West Virginia Department of Health and Human Resources (WVDHHR) Extension of 60-month Limit for Cash Assistance with the Claimant and submitted the application to the Extension Committee of the Office of Family Support. Exhibit D-1 documents that the Claimant was scheduled to exhaust her lifetime limit of cash assistance in November, 2011. The basis of consideration for the Claimant's request was her participation in an vocational activity. This exhibit documents in pertinent part the following:

----- and ----- are attending the International Beauty School in [REDACTED]
[REDACTED] ----- has completed the [REDACTED] hours and has taken part of her testing for her license. She still has to take the second part of the state boards to obtain her [REDACTED] license. She went back to the International Beauty School to complete the extra 500 hours for the WV state boards. They will both complete this schooling in October, 2011.

- 3) On August 25, 2011, the Department received an electronic mail transmission from the Extension Committee (Exhibit D-2) regarding the Claimant's request for an extension. This exhibit documents that the request for an extension of the 60-month lifetime limit was denied because the request did not meet any of the criteria to which an extension may be granted under West Virginia Income Maintenance Manual Chapter 15.6. Specifically, this exhibit documents that the Claimant would complete her vocational activity in the 59 month of receipt of cash assistance.

- 4) On August 26, 2011, the Department issued Exhibit D-4, Notice of Decision to the Claimant, informing her of the decision of the Extension Committee. Exhibit D-4 documents in pertinent part:

Your application for 60 month extension for WV WORKS has been denied effective 8/25/11.

Here is why: You will receive your 59th month in October 2011. You do not meet any of the circumstances under which an extension may be granted as outlined in Chapter 15.6 of the Income Maintenance Manual.

- 5) The Claimant acknowledged that she was scheduled to complete her vocational activity at the International Beauty School in October 2011. The Claimant cited a timeframe of unemployment between completion of the vocational activity and receipt of her license as the reasoning in which she applied for an extension. However, the Claimant indicated she quit her vocational activity, with 100 hours of completion remaining, when her WV WORKS cash assistance was terminated and began seeking employment. Additionally, the Claimant's husband added that he was forced to quit the vocational activity due to "medical reasons" and his wife was required to provide care for him.
- 6) 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
- Pregnancy/Age of Child
- In 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.

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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires 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. The individual's participation in a vocational training or educational activity is a provision in which an extension may be granted. This provision requires that the individual maintain satisfactory progress toward completion of the activity. Additionally, policy requires that 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.
- 2) Testimony and evidence revealed that the Claimant was scheduled to complete her participation in a vocational activity in October, 2011, the month prior to reaching her 60-month lifetime limit. Because the Claimant was scheduled to successfully complete her vocational activity prior to the exhaustion of her 60-month lifetime limit, she did not meet any of the provisions for an extension as outlined by policy. Because the Claimant disenrolled herself from the educational activity prior to completion, she no longer met the requirements for an extension to the 60-month lifetime limit. Therefore, the Department was correct in its decision to deny the Claimant's request for an extension beyond the 60-month lifetime limit for WV WORKS cash assistance.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the decision of the Department in denying the Claimant's request for an extension beyond the 60-month lifetime limit for WV WORKS cash assistance.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of December , 2011.

Eric L. Phillips
State Hearing Officer