



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

February 18, 2011

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 2, 2011. Your hearing request was based on the Department of Health and Human Resources' action to terminate your WV WORKS cash assistance effective November 30, 2010 and not subsequently grant an extension to 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 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 has a child that will be less than six months old when the benefits end. Policy provides that when based on the age of a child, the extension remains in effect through the month the child reaches six (6) months of age. (WV Income Maintenance Manual Section 15.6)

Information submitted at your hearing shows that your sixtieth (60<sup>th</sup>) month of WV WORKS cash assistance ended November 30, 2010. The evidence fails to demonstrate that you qualified for an extension of WV WORKS cash assistance beyond the 60-month lifetime limit based on having a child less than six months old when your benefits ended; your child reached the age of six (6) months prior to termination of your benefits.

It is the decision of the State Hearing Officer to **uphold** the Department's action to terminate your WV WORKS cash assistance effective November 30, 2010, and to not subsequently grant an extension to the sixty month lifetime limit based on the age of your child.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Maxine Pack, FSS, DHHR

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

-----,

**Claimant,**

v.

**Action Number: 10-BOR-2484**

**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 hearing convened on February 4, 2011 on a timely appeal filed November 30, 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  
Maxine Pack, Department representative  
Shawn McMasters, Department's witness

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

**IV. QUESTIONS TO BE DECIDED:**

The questions to be decided are whether or not the Agency was correct in its decision to terminate the Claimant's WV WORKS cash assistance effective November 30, 2010 and to not subsequently grant an extension to the sixty 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 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 November 23, 2010, the Claimant was notified (D-2) that her WV WORKS benefits would stop after November 2010. This notice explained that her benefits were being terminated because she had received them for sixty months which is the maximum allowable period of time.
- 2) On May 13, 2010 the Department sent the Claimant a notification letter (D-1) to her known address of P.O. Box 11247, Charleston, West Virginia, 25339. The letter provided the following pertinent information:

You have received a notice that your WV WORKS benefits are nearing the 60 month time limit. If your family is experiencing any of the following situations, you may be eligible for an extension of benefits. You may attach any paperwork or information that you believe may be helpful in making a decision about your extension request.

- ☐ Domestic Violence
- ☐ Providing Care For a Relative
- ☐ Late Onset of Incapacity or Illness
- ☐ Disabled
- ☐ Pregnancy or Age of Child – You are pregnant and will be in your last trimester in your 60th month of WV WORKS or have a child that will be less than six months old when your benefits stop. There must be only one adult or emancipated minor in the household to be eligible for this extension.
- ☐ In a Vocational Training or Education Activity

- 3) The Claimant contends that she did not receive the May 13, 2010 notification letter from the Department because she had moved, and that when she subsequently applied for the extension on November 30, 2010, no action was taken by the Department to either approve or deny the request. She stated that she requested the extension based on the age of her child, and testified that her child was six (6) months old in November 2010.
- 4) The Department contends that it never received a request from the Claimant for an extension of her WV WORKS benefits past the sixty (60) month time limit; therefore, no action was taken to approve or deny the extension.
- 5) Case comments in the Department's computer system (D-3) document that the Claimant was seen in the office on November 30, 2010 and that she requested to speak with a supervisor about requesting an extension of her WV WORKS benefits. Testimony from the supervisor, Shawn McMasters, provided that she spoke with the Claimant on the date in question, but that she only explained to her that the case worker would print off the forms for requesting an extension and that she could complete and return them for consideration. She testified that she did not receive the completed forms from the Claimant.
- 6) 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.
- 7) 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.

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.
- 8) WV Income Maintenance Manual, Chapter 15.6.C.5 states that an AG may qualify for an extension when both of the following conditions are met: (1) - There is only one adult or emancipated minor living in the household; and, (2) - the pregnant woman will be in her last trimester of pregnancy in the 60<sup>th</sup> month of TANF receipt; or the AG includes a child who will be less than six months of age in the 60<sup>th</sup> month of TANF receipt. When based on the age of a child, the extension remains in effect through the month the child reaches 6 months of age.

## **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 may qualify for an extension of up to six (6) additional months. Among the reasons for which an extension may be granted is if the assistance group includes a child who will be less than six (6) months of age in the sixtieth (60<sup>th</sup>) month of TANF receipt. Policy provides that if the extension is based on the age of a child, the extension remains in effect through the month the child reaches six (6) months of age.
- 2) The Claimant testified that she requested an extension based on the fact that her child attained the age of six (6) months during the month of November 2010, which was the last month of her sixty (60) month lifetime limit. She received WV WORKS cash assistance during the month of November 2010.
- 3) Because policy states that an extension based on a child's age allows for the extension only through the end of the month that said child attains six (6) months of age, and because the Claimant's child reached the age of six (6) months during the month of November 2010, which is during her sixtieth (60<sup>th</sup>) month of eligibility, she is not eligible for extended benefits.

## **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 terminating the Claimant's WV WORKS cash assistance effective November 30, 2010 and in not subsequently granting an extension to the sixty month lifetime limit based on the age of the Claimant's child.

## **X. RIGHT OF APPEAL:**

See Attachment

## **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 18<sup>th</sup> Day of February, 2011.**

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**Cheryl Henson  
State Hearing Officer**