



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661**

**Earl Ray Tomblin
Governor**

**Karen L. Bowling
Cabinet Secretary**

April 28, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1491

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Ruth Newsome, Family Support Specialist

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1491

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision 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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on April 26, 2016, on an appeal filed March 10, 2016.

The matter before the Hearing Officer arises from the February 26, 2016 decision by the Respondent to deny the Appellant's request to extend her receipt of WV WORKS cash assistance beyond the 60-month lifetime limit for this benefit.

At the hearing, the Respondent appeared by Ruth Newsome, Family Support Specialist. Appearing as a witness for the Respondent was Heather McCoy, Family Support Supervisor. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Form DFA-Ex-1, Request for Extension of 60-Month Limit for Cash Assistance, dated February 26, 2016
- D-2 E-mail from ██████████ of the WV WORKS Policy Unit, 60-month Extension Committee, dated February 26, 2016
- D-3 WV DHHR Income Maintenance Manual, Chapter 15, §15.6
- D-4 60-Month Extension Denial Letter from Department to Appellant, dated February 26, 2016
- D-5 Fair Hearing request form, dated March 2, 2016
- D-6 Appointment letter from Department to Appellant, dated March 11, 2016

- D-7 Form DFA-RT-5, Medical Review Team General Physical, dated February 25, 2016
- D-8 WV WORKS Case Recordings, dated March 21 – 24, 2016
- D-9 Form IG-BR-29, Fair Hearing Request Notification, dated March 10, 2016
- D-10 Fair Hearing Scheduling Order, dated March 18, 2016
- D-11 Form DFA-RT-1, Social Summary Outline, dated March 24, 2016
- D-12 Form DFA-RT-2, Medical Review Team Transmittal Memorandum, dated March 23, 2016
- D-13 Form ES-RT-3, Medical Review Team Disability/Incapacity Evaluation, dated March 28, 2016
- D-14 WV WORK Personal Responsibility Contract (PRC) Self-Sufficiency Plan, signed by Appellant and Worker on April 11, 2016

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant applied for WV WORKS cash assistance benefits on January 4, 2016. Before this, she had lived in the state of [REDACTED] where she had received 54 out of the maximum 60 months of cash assistance from Temporary Aid for Needy Families (TANF) programs throughout the United States.
- 2) On February 16, 2016, the Appellant and certain supervisors and workers from the WV DHHR, [REDACTED] County office, conducted a Periodic Self-Sufficiency Evaluation (PSSE), a requirement of all WV WORKS recipients who receive 55 out of 60 months of TANF/WV WORKS funds. During the PSSE, the Appellant indicated she had applied to the WV WORKS Policy Unit, 60-Month Extension Committee, for a six-month extension of her WV WORKS benefits. Also during the PSSE, the Department gave the Appellant forms to be completed by her physician, which were needed to establish medical disability.
- 3) On February 26, 2016, a worker in the WV WORKS unit of the WV DHHR, [REDACTED] County office, sent to the 60-Month Extension Committee a DFA-EX-1, Request for Extension of 60-Month Limit for Cash Assistance (Exhibit D-1), a form briefly describing the Appellant's history of TANF/WV WORKS receipt and reason or reasons she requested the extension. The worker who completed the form indicated on it that the extension request was based on the Appellant's educational activity and disability. The form indicated the Appellant had applied for Supplemental Security Insurance (SSI).
- 4) The Appellant's educational activity was a six-credit-hour semester at an on-line university, which she began shortly after moving to West Virginia.

- 5) On February 26, 2016, the Extension Committee sent an e-mail (Exhibit D-2) to the [REDACTED] WV WORKS unit indicating that it had denied the Appellant's extension request. On that date, the Department sent a letter (Exhibit D-4) to the Appellant informing her that her extension request had been denied.
- 6) On March 2, 2016, the Appellant requested a fair hearing (Exhibit D-5) to protest the denial of her extension request. On March 11, 2016, the Department sent to the Appellant an appointment letter (Exhibit D-6) asking that she return to the DHHR, [REDACTED] County office, for a pre-hearing conference on March 21, 2016.
- 7) On March 21, 2016, the Appellant returned to the [REDACTED] office for the pre-hearing conference and submitted the documentation completed by her physician (Exhibit D-7), including a physical examination report. A worker in the [REDACTED] County WV WORKS unit forwarded this documentation to the Extension Committee, along with an e-mail (Exhibit D-8) indicating she also had sent the documentation to the Medical Review Team (MRT).
- 8) On March 28, 2016, the Medical Review Team sent a Disability/Incapacity Evaluation (Exhibit D-13) to the WV WORKS unit, [REDACTED] office, indicating the Appellant was disabled. Both the Department's representative and witness testified that they forwarded the Evaluation to the Extension Committee and requested a reevaluation of the extension denial, but as of the fair hearing date, had not received a response.
- 9) The Appellant will reach her 60-month eligibility limit for WV WORKS in July 2016.

APPLICABLE POLICY

WV Income Maintenance Manual (IMM) Chapter 15, §15.6.A reads as follows in 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 [Assistance Group or] AG member who has received TANF and/or WV WORKS as an adult or an emancipated minor renders the entire AG ineligible.

WV IMM §15.6.B reads as follows in part:

Receipt of any of the following benefits counts as one month toward the 60-month limit when an adult or emancipated minor is included in the AG:

- TANF check from WV or any state that used TANF block grant money for the payment;
- WV WORKS cash assistance when the benefit is funded by federal TANF/MOE funds or by a WV Solely State Funded (SSF) Program.

The limit is not 60 months for each state of residence. The time limit applies to all benefits received throughout the United States and its territories as long as the benefits were received under the TANF block grant.

WV IMM §15.6.C reads as follows in part:

There are provisions which may allow a family to receive benefits for more than 60 months . . . A temporary extension of up to six months may be given only once for the adults and emancipated minors in the AG at the time the extension is approved . . . 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.

Disabled

Disabled is defined as unable to engage in gainful employment, as determined by a medically-qualified individual.

Because WV WORKS clients must be referred to [the Medical Review Team or] MRT if unable participate for longer than a six-month period it is assumed that an individual who states he is disabled already will have medically established his disability by the 55th month of TANF/WV WORKS receipt. If not, he must apply for SSI and be referred to MRT prior to approval of an extension.

In a Vocational Training/Educational Activity

The extension is based on maintaining satisfactory progress toward course completion in a vocational training or educational activity . . . Educational activities are limited to literacy programs, high school, [Adult Basic Education or] ABE, vocational, and two- and four-year college programs. They do not include online courses.

WV IMM §15.6.E reads as follows in part:

All requests for extension are made to a nine-member committee consisting of four regional representatives and five appointees from various state offices, including Social Services, WV WORKS, Monitoring, the Medical Review Team, and the WV WORKS Policy Unit.

DISCUSSION

The Appellant had received 54 months out of her 60-month limit to receive TANF/WV WORKS before moving to West Virginia. Therefore, she and the [REDACTED] County office could not establish her disability “by the 55th month of TANF/WV WORKS receipt” as required by policy.

Policy is clear that on-line course work is not an acceptable activity for which a WV WORKS recipient may request an extension of his or her receipt of this benefit beyond the 60-month time limit. Therefore, the Extension Committee was correct to deny her request for an extension for educational activities.

Policy also is clear that an extension may be granted for a medical disability if the individual has applied for SSI and had been referred to the Medical Review Team for a disability determination. The Department's Request for Extension of 60-Month Limit for Cash Assistance (Exhibit D-1) and medical forms (Exhibits D-7, D-11, D-12 and D-13) indicate the Appellant was referred to the Medical Review Team, who found her to be disabled.

The Extension Committee did not make a determination based upon the Appellant's medical documentation or the Medical Review Team's findings, even though the ██████ County office sent this documentation to it on March 28, 2016. The February 26, 2016, extension denial will be remanded to the Extension Committee to reconsider its decision with regard to the medical documentation.

CONCLUSION OF LAW

The Department was not correct in its action to deny the Appellant's request for an extension of the 60-month limit to receive TANF/WV WORKS cash assistance based on her medical disability, pursuant to IMM Chapter 15, §15.6.

DECISION

It is the decision of the State Hearing Officer to **reverse** and **remand** the Department's decision to deny the Appellant's request for an extension of her 60-month lifetime limit to receive TANF/WV WORKS to the WV WORKS Policy Unit's Extension Review Committee. Should the Committee deny the Appellant's extension request, she shall have the right to protest its decision anew.

ENTERED this 28th Day of April 2016.

Stephen M. Baisden
State Hearing Officer