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**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
PO Box 1247
433 MidAtlantic Parkway
Martinsburg, WV 25402**

**Jolynn Marra
Interim Inspector General**

September 22, 2021

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1860

Dear [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,

Lori Woodward, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Peter VanKleeck, BCF, [REDACTED] Co. DHHR
Kimberly Coleman, BCF, [REDACTED] Co. DHHR

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

██████████,

Appellant,

v.

Action Number: 21-BOR-1860

**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' Common Chapters Manual. This fair hearing was convened on September 9, 2021, on an appeal filed July 28, 2021.

The matter before the Hearing Officer arises from the July 23, 2021, decision by the Respondent to deny WV Works Extension application.

At the hearing, the Respondent appeared by Kimberly Coleman, Family Support Supervisor. Appearing as a witness for the Respondent was Noelle Moore, Family Support Services worker. The Appellant appeared *pro se*. The witnesses were sworn, and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 West Virginia Department of Health and Human Services Request for Extension of WV WORKS 60 Month Time Limit, dated June 8, 2021
- D-3 West Virginia Department of Health and Human Services Request for Extension of WV WORKS 60 Month Time Limit for Cash Assistance, dated June 15, 2021
- D-4 60th Month Decision email from Charlie Dotson, BCF, OCF policy dated June 24, 2021 to Noelle Moore; Form ig-br-29 verbal request for fair hearing date July 28, 2021
- D-5 Notice of denial dated July 23, 2021
- D-6 West Virginia Income Maintenance Manual, (WV IMM), Chapter 18.2.3

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, 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 and her husband were recipients of WV WORKS/WVEAP (WVW) benefits who met their 60 month lifetime limit on August 31, 2021. (Exhibit D-4)
- 2) The Appellant requested an extension of her WVW benefits (hereinafter referred to as “extension”) on June 8, 2021 based on her disability. (Exhibit D-2)
- 3) The Appellant was determined incapacitated by the WV Medical Review Team (MRT) on April 6, 2021. (Exhibit D-3)
- 4) The Appellant’s application for disability benefits from the Social Security Administration (SSA) was denied as was her appeal of the denial. (Exhibit D-3)
- 5) There was no record of a re-appeal of the SSA’s denial as of the date of the extension request.
- 6) The Appellant’s husband had been meeting his activity requirements for WVW benefits.
- 7) The Appellant’s husband has not been determined disabled by the SSA or MRT.
- 8) The 60-Month Extension Committee denied the Appellant’s request for an extension. (Exhibit D-4)
- 9) On July 23, 2021, the Respondent sent notification of the denial to the Appellant explaining that the Appellant did not “meet any of the circumstances under which an extension may be granted ... [the Appellant] has been denied by SSA with no appeal showing in the SSA records ... This is also a two-parent household and the second parent most [sic] also meet a need based on policy for the extension.’ (Exhibit D-5)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (IMM), Chapter 18, §18.2.1, explains that there is a lifetime limit of 60 months that a family may receive cash assistance under Temporary Assistance for Needy Families (TANF) and/or WV WORKS.

IMM Chapter 18, §18.2.3, in pertinent part, states that there are instances where 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, unless the extension is based wholly or in part on domestic violence. A single parent household in which the parent meets one of the listed criteria is eligible to be considered for an extension of the 60-month time limit. **For a two-parent**

household, both parents must meet one of the listed criteria for the AG to be eligible. Eligible criteria are: Battered or Subject to Extreme Cruelty; Providing Care to a Relative; Late Onset Disability, Disabled; Pregnancy/Age of Child; On a Vocational Training/Education Activity; Agency Error. [Emphasis added]

IMM Chapter 18, §18.2.3.D, *Disabled*, in pertinent part, explains that disabled is defined as unable to engage in gainful employment, as determined by a medically qualified professional. Because WV WORKS participants must be referred to the MRT if unable to participate for longer than a six-month period, it is assumed that an individual who states he is disabled will already 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 the MRT prior to approval of an extension. The Case Manager must complete the MRT application and evaluation as soon as possible before reaching the 60th month. An SSI denial based on failure to establish a disability does not automatically preclude an extension on this basis if the MRT finds the individual to be disabled. However, the **individual must be actively appealing his SSI denial to qualify for an extension.** [Emphasis added]

IMM Chapter 18, §18.2.5.C, *Review Request for Extension*, explains that all requests for extension are made to a nine-member committee known as the 60-Month Extension Committee, consisting of four regional representatives and five appointees from various state offices, including Social Services, WV WORKS, Division of Planning and Quality Improvement (DPQI), the MRT, and the DFA Family Support Policy Unit. Once the forms are received in the state office, they are logged in and tracked to make sure information is obtained and a timely decision is made. The participant's Case Manager and the Case Manager's Supervisor are notified of the request. The Case Manager completes the Extension Request Form (DFA-EX-1) and forwards it along with any other information requested to the DFA Family Support Policy Unit. If the participant is requesting an extension due to a late onset illness or disability, the packet should include the MRT decision. The DFA-EX-1 must be signed by the Case Manager and Supervisor and include the local office recommendation regarding the extension. All requested information must be submitted within 30 days or the local office should notify the DFA Family Support Policy Unit regarding the reason for the delay. All such extensions are approved at the state office level by the 60-Month Extension Committee.

DISCUSSION

The Appellant was receiving WV WORKS/WVEAP (WVW) program benefits for a two-parent household. On April 6, 2021, the WV Medical Review Team (MRT) determined the Appellant incapacitated. The Appellant's husband continued to meet the activity requirements necessary for program eligibility. Because the Appellant's WVW benefits were set to reach the 60 month lifetime limit on August 31, 2021, the Appellant requested an extension based on her disability on June 8, 2021. The 60 month extension committee denied the Appellant's request for an extension. The denial was based upon the Appellant having been denied SSA benefits with no appeal on file and because the Appellant's husband did not meet a need based on policy for the extension. Notification of this denial was sent to the Appellant on July 23, 2021. The Appellant appeals this decision.

Policy limits receipt of WVW benefits for a lifetime amount of 60 months. There are some provisions which allow a family to receive benefits for up to six months past the 60 month lifetime limit. The provisions upon which consideration for an extension include: Battered or Subject to Extreme Cruelty; Providing Care for a Relative; Late Onset of Incapacity; Disabled; Pregnancy/Age of Child; In a Vocational Training/Education Activity; and Agency Error. Each listed provision has requirements which must be met in order for consideration under that particular provision. Policy requires that in a two-parent household each of the parents must meet an allowed provision in order for consideration of the extension.

The Appellant and her husband do not meet the listed criteria allowing for a 60 month extension of their WVW benefits. The Appellant provided unclear and ambiguous testimony regarding her re-appeal of the SSA denial. Additionally, the testimony provided did not show that the Appellant's husband would meet any of the listed policy provisions for extension. Although the Appellant testified that her husband suffers from anxiety issues which make it difficult for him to work, he has had no determination of disability by the SSA or MRT. The Appellant's worker, Ms. Moore, testified that she was unaware that the Appellant's husband had any concerns of disability as he was able to meet his participation hours for the WVW benefits. There was no testimony provided to show that the Appellant's husband has applied for his own disability.

The preponderance of evidence showed that the Respondent correctly denied the Appellant's request for extension of the 60 month lifetime limit for WVW benefits.

CONCLUSIONS OF LAW

- 1) Policy limits WVW benefits to a lifetime receipt of 60 months.
- 2) Policy specifies circumstances wherein an extension of up to six months beyond the lifetime limit would be considered. Each listed provision has additional requirements which must be met in order for consideration under that particular item.
- 3) Policy requires that in a two-parent household each of the parents must meet an allowed provision in order for consideration of the extension.
- 4) The Appellant and her husband do not meet the criteria necessary to allow an extension of the 60 month lifetime limit for WVW benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's decision to deny the Appellant's request for an extension of the 60 month lifetime limit for WVW benefits.

ENTERED this 22nd day of September 2021.

Lori Woodward, Certified State Hearing Officer