

15.6 LIFETIME LIMIT FOR RECEIPT OF CASH ASSISTANCE (TANF, WV WORKS)**A. SIXTY-MONTH TIME LIMIT**

NOTE: For cases that were active cash assistance recipients in 1/97, the first month of the lifetime limit is 1/97.

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.

NOTE: Work-Eligible adults and emancipated minors excluded from the AG are not subject to the 60 month time limit.

EXAMPLE: A divorced woman and her two children have received WV WORKS for 60 months. The woman marries the father of one of her children and together they apply for a check. Although her husband has never received WV WORKS, the family is not eligible and the application is denied.

EXAMPLE: A married couple and their three children receive WV WORKS. In the 54th month, one parent is approved for SSI. The rest of the family is eligible to receive a check for an additional 6 months. In the 59th month the non-SSI parent dies. The case becomes a child-only case with no time limit.

EXAMPLE: A mother and children had received 30 months of WV WORKS when the father moves into household. The mother is approved for SSI at 32 months. At the time she is approved, the father has received 2 months. He and the children may receive benefits for up to 58 additional months.

EXAMPLE: A man and his child receive WV WORKS for 60 months. The father cannot find employment and relinquishes custody of the child to a grandmother. The grandmother no longer has a dependent child of her own, but received WV WORKS for 37 months before her youngest child turned 18. She opts to be included in the check with her grandchild and may receive a check for up to 23 months.

NOTE: Although an SSI parent is not included in the AG, the child(ren) is ineligible for child-only WV WORKS benefits if the parent(s) received 60 months of TANF benefits.

EXCEPTION: Any month during which the adult lived on an Indian reservation or in an Alaskan Native village is not counted toward the 60-month limit if:

Specific WV WORKS Requirements

- At least 1,000 individuals were living on the reservation or in the village; and
- At least 50% of the adults living there were unemployed.

B. BENEFITS WHICH COUNT TOWARD THE LIMIT

Receipt of any of the following benefits counts as 1 month toward the 60-month limit when an adult or emancipated minor is included in the AG.

- TANF check from WV or from any state that used TANF block grant money for the payment. See Appendix C of Chapter 1 for a list of states and when they converted to TANF.
- WV WORKS cash assistance when the benefit is funded by federal TANF/MOE funds or by a WV Solely State Funded (SSF) Program.

EXCEPTION: When a TANF or WV WORKS check was received ineligibly, and is repaid in full, that month does not count toward the 60-month limit. The WV WORKS benefit cannot be repaid or returned to the Department unless the AG was ineligible.

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. Therefore, when a client indicates he has been a resident of another state, the Worker must determine if he received cash assistance and, if so, if the program was funded under the Block Grant authorized by PRWORA. See Section 15.1 for a detailed explanation of the welfare reform legislation and its impact on cash assistance programs. States had until July 1997 to convert from the former AFDC Program to a program funded under the Block Grant. Many states converted to the new program early. Therefore, the Worker must contact the other state to determine when the benefits were received and for how many months. These months must be documented in case comments and on ANLM. Workers must fax the DFA-WVW-Verif-1 to the other state to obtain written verification of the TANF months received in that state. Agency printouts or other written verification obtained from the state are also acceptable. That verification must be placed in the case record. If months prior to 7/97 are involved, the Worker must also determine how many months of benefits the client received under the Block Grant program. See Appendix C to Chapter 1 for a list of states and their effective dates of conversion to TANF.

The calculation of the number of months of TANF benefits received must be completed at the time of application. At that time the number of months listed on ANLM should be adjusted and case comments should document why the adjustment was made.

Specific WV WORKS Requirements

C. 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.

The limit is 20% of the average monthly number of WV WORKS AG's, minus only the average monthly number of child-only AG's. This number is only valid on a statewide basis. Therefore, the percentage of extensions from county to county may vary greatly.

The Worker must not inform the client that he is, or may be, exempt from the time limit during the 60-month eligibility period, unless written notice of approval has already been received from the 60-Month Extension Committee.

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. See Battered Or Subjected To Extreme Cruelty below.

All extension requests must be made prior to the first day of the 60th month. 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.

NOTE: Although the 60-month lifetime limit does not apply to a non-recipient Work-Eligible parent, if another parent is included in the AG, the time limit applies to the adult AG members.

EXCEPTION: Victims of domestic violence, who meet the criteria in Battered Or Subjected to Extreme Cruelty below, may reapply for WV WORKS after the 60-month closure.

Specific WV WORKS Requirements

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. For a 2-parent household, both parents must meet one of the following criteria for the AG to be eligible:

NOTE: All extensions are temporary. Unless specified below, an extension may only be approved for up to 6 months and may be approved only once.

1. Battered Or Subjected To Extreme Cruelty

NOTE: An extension based solely or in part on these criteria may be approved multiple times and may exceed the 6-month limit. These multiple extensions need not be consecutive because clients may reapply after case closure.

a. Recipients

For extension purposes these conditions are defined as follows:

- Physical acts that result in, or threaten to result in, physical injury; or
- Sexual abuse; or
- Sexual activity involving a dependent child; or
- Being the caretaker of a dependent child and being forced to engage in non-consensual sex acts; or
- Threats of, or attempts at, physical or sexual abuse; or
- Mental abuse, including threats; or
- Neglect or deprivation of medical care.

The individual who meets the definition must accept a referral to a domestic violence program that operates under a State license or through an agreement with DHHR. In addition, the client must participate in and follow any plans developed with the program.

Once an extension is approved based on the above criteria, the Worker must monitor the case for compliance. The WV WORKS check continues until the situation is resolved or the AG is no longer eligible for a check for other reasons. Normal redetermination procedures apply.

Specific WV WORKS Requirements

b. Applications After 60-Month Closure

The Worker may approve applications for individuals who have received 60 months of WV WORKS but who meet the criteria outlined in item a, above. The Worker must notify the Extension Committee of the approval and send a completed extension form for its review.

As in any extension, the Worker must monitor compliance and close the case when the client is no longer following a plan or when the situation has been resolved and domestic violence is no longer an issue. The Worker must notify the 60-Month Committee when the extension of benefits ends.

There is no limit to the number of times a household may reapply and be approved so long as the situation remains unresolved and the client is in compliance.

2. Providing Care For A Relative

For extension purposes, all of the following conditions must be met.

- It must be a single parent household, unless one parent is providing care for the other parent who is disabled; and
- The caregiver would normally be required to meet a work requirement; and
- Is needed at home to care for a disabled family member who resides in the home and is not a full-time student; and
- Medical documentation must be provided to support the need for the parent to remain in the home to care for and monitor the disabled family member; and
- No one else is available to provide this care.
- Such care will not be necessary for more than 6 months, or the family has made other care arrangements that will be completed within 6 months, or the family is attempting to make other care arrangements, including application for HCB or I/DD waiver.

Specific WV WORKS Requirements

3. Late Onset Of Incapacity

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.

NOTE: WV WORKS participants who have a documented disability must be placed in the AD component in Work Programs in addition to other component codes.

To be eligible for an extension when there are two parents in the household, each parent must meet one of the requirements of extension criteria outlined in this chapter.

4. Disabled

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

Because WV WORKS clients must be referred to MRT if unable to participate for longer than a 6 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 MRT prior to approval of an extension. The Worker 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 MRT finds

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the individual to be disabled. However, the individual must be actively appealing his SSI denial to qualify for an extension. If the individual has been found to be disabled by MRT and his re-evaluation is due before his 60th month of benefit receipt, his case must be submitted for a re-evaluation by MRT. WV WORKS participants who have a documented disability must be placed in the AD component in Work Programs in addition to other component codes.

If it is determined that the individual is not disabled, or is able to engage in gainful employment with no limitations, he does not qualify for an extension.

If it is determined that the individual is able to engage in gainful employment with some limitations, he may qualify for an extension of up to 6 months to locate suitable employment and must be referred to the Division of Rehabilitation Services for a vocational evaluation and assessment.

If MRT has determined, before or during the 60th month of benefits, that the individual will be temporarily unable to engage in gainful employment for a period of time extending beyond the 60th month of eligibility, he may qualify for an extension of up to 6 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 status of the client on a monthly basis.

If an MRT re-evaluation is due during the extension period and the decision again finds the individual unable to participate, the extension will continue up to 6 months. In this situation, if the extension is continued longer than initially approved by the committee, the Worker must detail the reason for extending the months in case comments, notify the 60-Month Extension Committee for approval, and adjust the appropriate number of months to ANLM, not to exceed 6. During the extension period, the Worker must monitor the case to make sure the client continues to meet all other eligibility requirements.

EXAMPLE: If a person receives their 60th month of benefits in January 2006 and has been found to be disabled or incapacitated by MRT with a re-evaluation due in February 2006, the Committee approves a one month extension through February 2006. In February, MRT determines that the disability continues and sets the next re-evaluation for August 2006. The extension may be extended through July 2006, which would be the sixth month of benefits over the 60 month time limit. The Worker will adjust 5 months on ANLM and document the decision and action in case comments. This individual must be placed in the AD component in Work Programs in addition to other component codes.

Specific WV WORKS Requirements

If it is determined that an individual is permanently unable to engage in gainful employment, he qualifies for consideration for an extension of up to 6 months to apply for, or appeal prior denials of, statutory benefits. Statutory benefits include, but are not limited to, RSDI, SSI, VA, and/or Railroad Retirement. This individual must be placed in the AD component in Work Programs in addition to other component codes.

NOTE: The Worker must contact the extension applicant and give him the information regarding the impact of receiving 60 months of TANF benefits. If the individual receives 60 months of WV WORKS benefits, he will be ineligible to receive child-only benefits if he is later approved for SSI. If the client closes his case in the 59th month of benefits and is later approved for SSI, he may be eligible to receive child-only benefits for his child(ren). Comments regarding this discussion and the participant's decision must be recorded in case comments before the case information is submitted to the 60 Month Committee.

5. Pregnancy/Age Of Child

An AG may qualify for an extension when both of the following conditions are met.

- There is only 1 adult or emancipated minor living in the household; and
- The pregnant woman will be in her last trimester of pregnancy in the 60th month of TANF receipt; or

The AG includes a child who will be less than 6 months of age in the 60th month of TANF receipt.

EXAMPLE: A pregnant woman with 2 children is approved for a 6 month extension based on her pregnancy. The 6 month period runs from January through June. The baby is born in February. Although the baby will not be 6 months old until August, the extension must end in June when she has received 66 months of TANF.

EXAMPLE: A pregnant woman with 2 other children lives with her boyfriend who is not the legal father of any of the children. She does not qualify for consideration under this extension criteria.

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EXAMPLE: A mother lives with her 2 children. The youngest child was born in July and the household receives its 60th month of benefits in August. An extension is granted based on the age of the child. The extension will end in January when the child turns 6 months of age.

When based on a verified pregnancy, the extension remains in effect for up to 6 months. When the pregnancy does not end in a live birth, the extension, if already approved, remains in effect for 2 months following the end of the pregnancy.

When based on the age of a child, the extension remains in effect through the month the child reaches 6 months of age.

6. 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.

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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.

7. Agency Error

The 60-Month Extension Committee only may approve an extension based on agency error if during the extension request process either the local office or the 60-Month Extension Committee does not act in a timely manner. This must occur between months 55 through 60. No repayment required if extension is not approved. This extension is limited to three months.

8. Vance v. Nusbaum

The Vance v. Nusbaum Court Order was based on the Agreed Order entered March 10, 2004. It directed that all WV WORKS recipients who had reached 60 month TANF limits, prior to April 1, 2004, whose case had been sanctioned during that 60 month period were sent a notice in November 2004 advising them of the opportunity to request a review of any sanction that was applied over the life of their case. Clients were given a 60 day period to request a review of any sanction they believed was unfairly applied due to an existing physical or mental illness or learning disability recognized under the Americans with Disabilities Act (ADA). These 60 month reviews were completed and all clients notified of the decisions by May 2005. Due to time limits imposed by the Court Order, extensions are no longer granted under this provision.

D. FORMAL CASE REVIEW IN 55TH MONTH

After a client has received WV WORKS for 55 months, a formal case review must be conducted. The purpose of this review is to assess the progress of the household members towards achieving self-sufficiency and to determine what activities the client needs to complete during the remaining months of WV WORKS eligibility. This review is not discretionary. Scheduling the review is mandatory. Attendance at this conference should be included as an item on the last revision of the SSP completed before the meeting would normally be scheduled. The Worker must schedule the review by issuing a letter to the client.

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The review includes the client, Case Manager, Supervisor, the Community Services Manager or his designee, Social Services and any other representatives from agencies that might be of assistance to the client. The client may bring his own representative(s) to the meeting and is responsible for notifying anyone he wants to be involved in the process. This group determines what can be done before the client reaches the 60-month time limit to move the family closer to becoming self-sufficient.

If the group decides an extension is appropriate and additional months are needed, all paperwork for an application for extension must be completed at this time. The group will review the extension categories and their definitions to determine the appropriate category to use for the client's request. A statement from the 55 month review group may be submitted to the 60-Month Extension Committee along with the other extension documents.

In order to insure that time frames are met, if the client indicates he would like to apply for an extension based on disability, and the case has not been submitted to MRT, the MRT process must begin immediately so that a decision may be made in a timely manner. If the client is pursuing an extension based on disability, the Worker must explain that if the client opts to receive 60 months, he will be ineligible to receive Child-only benefits if he is later approved for SSI.

If the client fails to appear at the first scheduled review, the Worker must call the client and reschedule the meeting. If the client later requests one, his request must be honored when the process can be accomplished prior to receipt of the 60th month's benefit.

All scheduling, rescheduling and abandonment of the review process must be documented in RAPIDS.

E. EXTENSION PROCEDURE

The process for determining if the AG is eligible for an extension begins in the 55th month of the 60-month lifetime limit when the client is mailed a special notification letter about the end of his 60-month time limit. The notice is to be returned to the state office for consideration of an extension of the time limit. If the form is returned to any local office, the local office must forward it immediately to the WV WORKS Policy Unit. If the Worker or Supervisor becomes aware of a client who did not apply for an extension but who may be eligible for one, he must notify the WV WORKS Policy Unit immediately by GroupWise for consideration of an extension.

All requests for extension are made to a 9-member committee consisting of 4 regional representatives and 5 appointees from various State offices, including Social Services, WV WORKS, Monitoring, the Medical Review Team, and the WV WORKS Policy Unit.

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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 client's Worker and the Worker's Supervisor are notified of the request. The Worker completes the Extension Request Form (DFA-EX-1) and forwards it along with any other information requested to the WV WORKS Policy Unit. If the client 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 Worker 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 WV WORKS Policy Unit regarding the reason for the delay. All such extensions are approved at the State Office level by the 60-Month Extension Committee.

If the client does not indicate he wants to be considered for an extension and the Worker and/or Supervisor do not recommend an extension for him, the family is ineligible after case closure due to the 60-month limit. Advance notice requirements apply, but benefits must not be continued pending a Fair Hearing decision should the AG request a hearing following case closure.

If an extension is requested based on more than one of the possible categories, or it appears to the Worker that the client may be eligible for an extension based on a different provision, it is the Worker's responsibility to provide case information that addresses any appropriate categories with an emphasis on the provision that would provide the greatest number of extended months.

If an extension is approved, the Committee notifies the local office of the length of the extension and the requirements for compliance with the terms of the extension. The local office notifies the client of the approval and the client's responsibilities once the extension begins. The local office is responsible for monitoring the time limit to assure that it is not exceeded and that the client remains eligible for the extension. The Worker adjusts the months on ANLM and documents the Committee's decision, reason for the extension, and number of months granted in case comments.

If an extension is denied, the Worker must send notice of the decision, along with a Fair Hearing Request form to the client. This must be documented in case comments. The client may request a Fair Hearing, but benefits must not be continued pending the Fair Hearing decision.

During a pre-hearing conference, the Worker may determine that a verified change in the client's circumstances has occurred and that a reconsideration of the client's extension request is appropriate. The change must have occurred between the time of the initial request for extension and receipt of the 60th month of WV WORKS benefits. The Supervisor is responsible for approving the submittal of a request for reconsideration to the Extension Committee.

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When such a change has occurred and been verified, or the Hearings Officer has ruled the county must request reconsideration, the Supervisor must notify the Committee over GroupWise that a reconsideration is being requested and include a description of the change, how it was verified, and the recommendation of the Supervisor for approval or denial.

Submission of a request for reconsideration late in the 60-month time limit does not result in an automatic extension. No extension is applied unless the Committee approves an extension prior to case closure at the end of the 60th month, or criteria in Applications After 60-Month Closure above applies.

The Committee follows the same procedure for a reconsideration of an extension as for an original request. There is no limit on the number of times an extension request may be reconsidered, provided the AG has not received its 60th month of TANF/WV WORKS.

F. FAIR HEARING PROCEDURES

Any client whose request for extension has been denied for any reason may request a Fair Hearing. Benefits, however, may not be extended beyond the 60th month or be reopened following a 60-month closure while a hearing or a decision by the Hearings Officer is pending.

The Hearings Officer may reverse the decision of the Extension Committee and grant an extension of up to 6 months, or he may rule that the Committee must reconsider the request.

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The client also has the right to a Fair Hearing when the reconsideration results in denial of an extension. The Hearings Officer may rule that the extension was denied in error and instruct the local office to extend benefits or reopen the case for the appropriate extension period.