



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
Office of Inspector General  
Board of Review  
227 Third St.  
Elkins, WV 26241

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

May 24, 2005

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 23, 2005. Your hearing request was based on the Department of Health and Human Resources= proposal to terminate your benefits and services under the Medicaid Title XIX (Home & Community-Based) Waiver Program.

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.

The Aged/Disabled (HCB) Title XIX Waiver Services Program is granted to those individuals who continue to meet all eligibility requirements. Eligible individuals are those who qualify medically for a nursing facility level of care but have chosen the Waiver Program as a means to remain in their home where services can be provided. A client in the ADW Program must receive homemaker services in order to retain eligibility. [Aged/Disabled (HCB) Services Manual ' 590]

Information submitted at your hearing revealed that no homemaker services had been provided to you for more than 100 days. Policy states that a discontinuation of services is warranted when a client has not received services for 100 continuous days.

Therefore, it is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to terminate your benefits under the Aged/Disabled Title XIX (HCB) Waiver Program.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
BoSS  
Americare Management Services

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

**NAME:** \_\_\_\_\_  
**ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on May 24, 2005 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 May 23, 2005 on a timely appeal filed February 9, 2005.

It should be noted here that benefits under the Medicaid Title XIX Waiver (HCB) Program have been continued pending the results of this hearing.

All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE:**

The Program entitled **Medicaid Title XIX Waiver (HCB)** is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health and Human Resources. Under Section 2176 of the Omnibus Budget Reconciliation Act of 1981, states were allowed to request a waiver from the Health Care Financing Administration (HCFA) so that they could use Medicaid (Title XIX) funds for home and community-based services. The program's target population is individuals who would otherwise be placed in an intermediate or skilled nursing facility (if not for the waiver services). Services offered under the Waiver Program will include: (1) chore, (2) homemaker and (3) case management services. West Virginia has been offering the Waiver Services Program since July, 1982 to those financially eligible individuals who have been determined to need ICF level care but who have chosen the Waiver Program services as opposed to being institutionalized.

**III. PARTICIPANTS:**

\_\_\_\_\_, daughter of Claimant  
[REDACTED] Case Manager, Americare Management Services  
Kay Ikerd, RN, BoSS (participating telephonically)

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Claimant continues to be eligible for services under the Aged/Disabled Waiver (HCB) Program.

## **V. APPLICABLE POLICY:**

Aged/Disabled Home and Community-Based Services Manual Section 590

## **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

- D-1 Aged/Disabled Home and Community-Based Services Manual ' 590.3
- D-2 Program discontinuation letter from Bureau of Senior Services dated January 31, 2005
- D-3 Letter from Americare Management Services dated January 18, 2005

## **VII. FINDINGS OF FACT:**

- (1) Americare Management Services sent a letter (D-3) to the Bureau of Senior Services on January 18, 2005 which indicated the Claimant had been without homemaker services in excess of 100 days. The letter stated the Claimant had been admitted to a nursing home on September 10, 2004.
- (2) The Bureau of Senior Services sent the Claimant a letter on January 31, 2005 (D-2) advising of the intent to discontinue eligibility for Aged/Disabled Waiver services based on policy located in Section 590.3 of the Aged/Disabled Waiver Policy and Procedures Manual. This policy states that discontinuation of services is warranted when a client has not received homemaker services for 100 continuous days.
- (3) Ms. \_\_\_\_\_ testified that her mother was discharged from the nursing home in January 2005. Ms. [REDACTED] stated that the Claimant is a regular Medicaid recipient and in March 2005 it was requested that a new PAS evaluation be completed to place the Claimant on the waiting list for the Aged/Disabled Waiver Program. Neither party disputed testimony provided by Ms. Ikerd.
- (4) Aged/Disabled Home and Community-Based Services Manual ' 590.3 (D-1) states that a discontinuation of services must occur when the client has not received services for 100 continuous days.

## **VIII. CONCLUSIONS OF LAW**

- (1) Policy states that if no homemaker services have been provided to an Aged/Disabled Waiver recipient for 100 days, eligibility for the services must be discontinued. Because the Claimant was admitted to a nursing home on September 10, 2004 and was not discharged from the facility until January 2005, it is clear that she did not receive Aged/Disabled Waiver services for more than 100 continuous days.

## **IX. DECISION:**

After reviewing information presented during the hearing and the applicable policy and regulations, it is the ruling of the State Hearing Officer to **uphold** the Agency's proposal to terminate benefits under the Aged/Disabled Title XIX (HCB) Waiver Program.

**X. RIGHT OF APPEAL:**

See Attachment.

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.