

State of West Virginia DEPARTMENT OF HEALTH AND HUMAN RESOURCES Office of Inspector General Board of Review

Board of Review 1027 N. Randolph Ave. Elkins, WV 26241

Joe Manchin III Governor		Martha	Yeager Walker Secretary
	June 22, 2006		
			
Dear Ms:			

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 15, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your homemaker service hours under the Aged/Disabled (HCB) Title XIX Waiver Services 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.

Eligibility for the Aged/Disabled Waiver Program is based on current policy and regulations. One of these regulations specifies that for the Aged/Disabled Waiver Program, the number of homemaker service hours is determined based on your Level of Care (LOC). The Level of Care is determined by evaluating the Pre-Admission Screening Form (PAS) and assigning points to documented medical conditions that require nursing services. Program services are limited to a maximum number of units/hours which is reviewed and approved by WVMI. (Aged/Disabled Home and Community-Based Services Waiver Policy and Procedures Manual 520 & 570.1)

Information submitted at your hearing revealed that you continue to require the degree of care and services necessary to qualify medically for the Aged/Disabled Waiver Program and your documented medical conditions confirm that your Level of Care should be a Level "D" rating. As a result, you are eligible to receive five (5) hours per day or 155 hours per month of homemaker services.

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to decrease your Level of Care under the Aged/Disabled Waiver Program.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review

CWVAS BoSS WVMI

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES BOARD OF REVIEW

Claimant,

v. Action Number: 06-BOR-876

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 concluded on June 22, 2006 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 June 15, 2006 on a timely appeal filed January 18, 2006.

It should be noted here that the Claimant's benefits have been continued pending a hearing decision.

II. PROGRAM PURPOSE:

The program entitled Aged/Disabled Waiver is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & 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
_____, son-in-law of Claimant
_____, Homemaker RN, Care, Inc.
Kay Ikerd, RN, BoSS (participating telephonically)
, RN, WVMI (participating telephonically)

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

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Agency was correct in its proposal to reduce the Claimant's homemaker service hours under the Aged/Disabled Waiver (HCB) Program.

V. APPLICABLE POLICY:

Aged/Disabled Home and Community-Based Services Manual Sections 520, 570 and 580

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Aged/Disabled Home and Community-Based Services Manual Sections 520, 570 and 580
- D-2 Pre-Admission Screening (PAS) 2005 assessment completed on December 29, 2005
- D-3 Notice of Decision dated January 5, 2006

Claimant's Exhibits

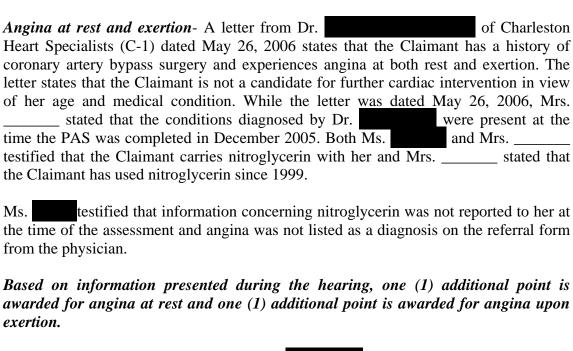
- C-1 Letter from Dr.
- C-2 Letter from Dr.
- C-3 Letter from
- C-4 Letter from
- C-5 Information from Dr.

VII. FINDINGS OF FACT:

- 1) The Claimant's Aged/Disabled Waiver case, hereinafter ADW, was undergoing an annual reevaluation to verify continued medical eligibility.
- 2) RN, West Virginia Medical Institute, completed a medical assessment (D-2) on December 29, 2005 and determined that the Claimant continues to meet the

medical eligibility criteria. The Claimant was assigned 20 points to documented medical conditions that require nursing services and meets the criteria necessary to qualify as a LOC "C" (20 points)- eligible for four (4) hours per day or 124 hours per month of homemaker services. It should be noted that the Claimant previously qualified as a LOC "D"- eligible for five (5) hours per day or 155 hours per month of homemaker services.

- 3) The Claimant was sent notification on January 5, 2006 (D-3) advising her of the proposed reduction in hours.
- 4) Witnesses for the Claimant contended that additional points should be awarded in the following areas:



Significant arthritis- The letter from Dr. states that the Claimant has a diagnosis of significant arthritis.

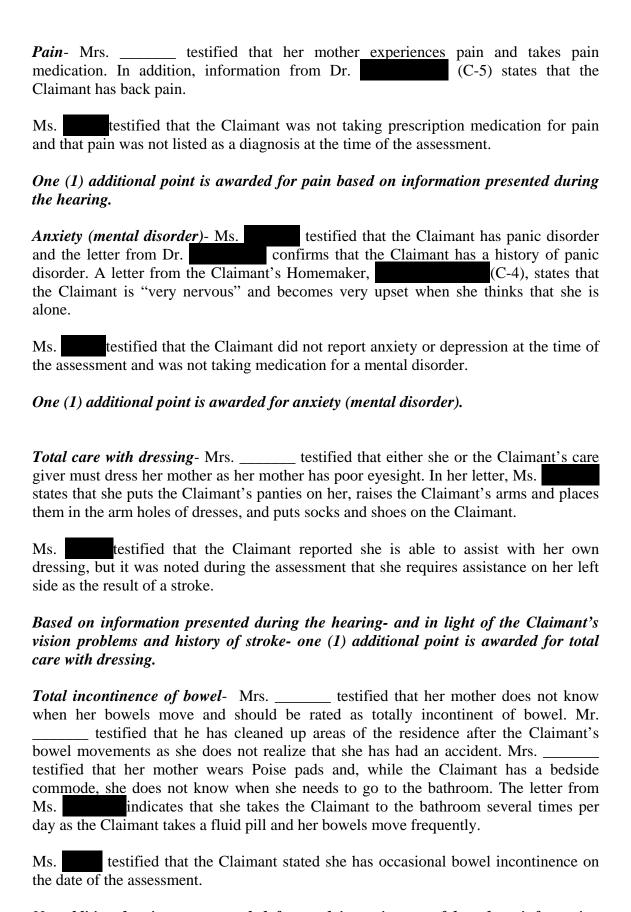
Ms. testified that the Claimant reported a history of arthritis during the assessment, but was not taking prescription medication and did not have a diagnosis.

Based on information from Dr. one (1) additional point is awarded for significant arthritis.

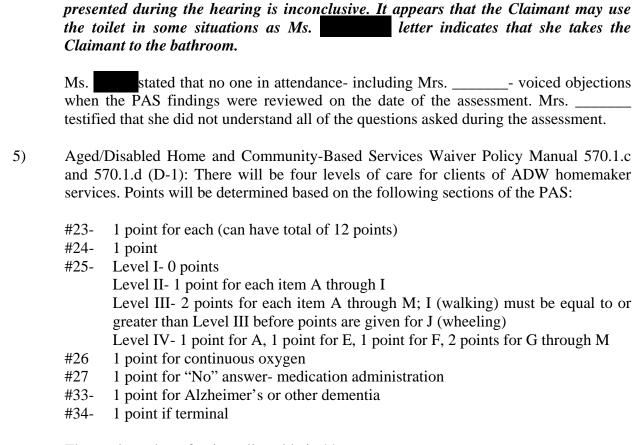
Dysphagia- Mrs. _____ and Ms. ____ testified that the Claimant has difficulty swallowing. Information from Dr. ____ dated January 17, 2006 (C-5) indicates the Claimant has a diagnosis of dysphagia.

Ms. testified that the Claimant reported no difficulty swallowing, had not been tested for swallowing difficulties and that dysphagia was not listed as a diagnosis at the time of the assessment.

Based on information presented during the hearing, one (1) additional point is awarded for dysphagia.



No additional points are awarded for total incontinence of bowel as information



The total number of points allowable is 44.

LEVELS OF CARE SERVICE LIMITS

Level A- 5 points to 9 points- 2 hours per day or 62 hours per month Level B- 10 points to 17 points- 3 hours per day or 93 hours per month Level C- 18 points to 25 points- 4 hours per day or 124 hours per month Level D- 26 points to 44 points- 5 hours per day or 155 hours per month

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that an individual's Level of Care for the Aged/Disabled Waiver Program is determined by the number of points the individual obtains on the PAS 2005.
- 2) The Claimant received 20 points on a PAS completed by Ms. in December 2005 in conjunction with an annual reevaluation.
- 3) As a result of testimony presented during the hearing, seven (7) additional points are awarded to the Claimant.
- 4) This brings the Claimant's total number of points to 27, which is indicative of a Level of Care "D" and renders the Claimant eligible for five (5) hours per day or 155 hours per month of homemaker service hours.

IX.	DECISION:
	It is the decision of the State Hearing Officer to reverse the Agency's proposal to reduce the Claimant's homemaker service hours under the Aged/Disabled, Title XIX (HCB) Waiver Program.

XI. ATTACHMENTS:

See Attachment

RIGHT OF APPEAL:

X.

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of June, 2006.

Pamela L. Hinzman State Hearing Officer