



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D
Cabinet Secretary

May 6, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 5, 2011. 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 the 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 501.3)

Information submitted at your hearing reveals 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 "B" rating. As a result, you are eligible to receive three (3) hours per day or 93 hours per month of homemaker services.

It is the decision of the State Hearing Officer to **uphold** 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
BoSS
WVMI



Betsy Carpenter, RN, West Virginia Medical Institute

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 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 501.3.2.1 and 501.3.2.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Aged/Disabled Home and Community-Based Services Manual Sections 501.3.2.1 and 501.3.2.2
- D-2 Pre-Admission Screening (PAS) assessment completed on January 25, 2011
- D-3 Notice of Decision dated January 27, 2011

VII. FINDINGS OF FACT:

- 1) The Claimant, a recipient of Aged/Disabled Waiver (ADW) Medicaid benefits, underwent an annual reevaluation to verify continued medical eligibility for the program.
- 2) West Virginia Medical Institute (WVMI) Registered Nurse Betsy Carpenter completed a Pre-Admission Screening (PAS) medical assessment (D-2) on January 25, 2011 and determined that the Claimant continues to meet the medical eligibility criteria. The Claimant was assigned 16 points to documented medical conditions that require nursing services and meets the criteria necessary to qualify as a Level of Care "B" - eligible for three (3) hours per day or 93 hours per month of homemaker services. It should be noted that the Claimant previously qualified for a Level of Care "C"- eligible for four (4) hours per day or 124 hours per month of homemaker services.
- 3) The Claimant was sent notification on January 27, 2011 (D-3) advising her of the proposed reduction in homemaker service hours.
- 4) The Claimant and her witness contended that additional points should be awarded in the following areas:

Angina upon exertion- [REDACTED] Registered Nurse/Case Manager for [REDACTED] testified that the Claimant experiences angina and, as a result, has been prescribed a beta blocker medication.

The WVMI Nurse testified that the Claimant has no verified diagnosis of angina, and the medications Tenormin and Avalide taken by the Claimant would be - based on the prescribed dosage amounts – prescribed to treat hypertension.

Dyspnea- Ms. [REDACTED] testified that the Claimant experiences shortness of breath, particularly when she is anxious.

The WVMI Nurse testified that the Claimant has no diagnosis of dyspnea and was not using inhalation therapy at the time of the assessment. The Nurse stated that the Claimant transferred/ambulated on the date of the assessment and no shortness of breath was observed.

Hearing- impaired, not correctable- Ms. [REDACTED] testified that the Claimant is permanently deaf in her right ear due to extreme head trauma and domestic violence. The Claimant testified that she must look at an individual's face in order to determine what they are saying.

The WVMI Nurse testified that the Claimant did not ask her to repeat words or speak in a louder tone during the assessment and denied the use of hearing aids, although she did report deafness in her right ear.

Bureau of Senior Services (BoSS) Registered Nurse Kay Ikerd testified that WVMI assesses an individual's functional ability in the home when completing a PAS and the Claimant is able to function in her residence despite hearing loss.

Total bowel incontinence- Ms. [REDACTED] testified that the Claimant is frequently incontinent of bowel and that vertigo increases the frequency of her bowel incontinence. She stated that the Claimant is awaiting the authorization of incontinence supplies through Medicaid.

The WVMI Nurse stated that the Claimant denied the use of incontinence supplies during the PAS and indicated that she had two episodes of bowel incontinence in the seven days prior to the assessment. Therefore, she was rated as being occasionally incontinent of bowel. The Nurse testified that an individual must be incontinent of bowel at least three times in a seven-day period in order to be considered totally incontinent.

- 5) Aged/Disabled Home and Community-Based Services Waiver Policy Manual Sections 501.3.2.1 and 501.3.2.2 (D-1): There will be four levels of care for clients of ADW homemaker services. Points will be determined based on the following sections of the PAS:

- #23- Medical Conditions/Symptoms- 1 point for each (can have total of 12 points)
- #24- Decubitis- 1 point
- #25- 1 point for b., c., or d.
- #26 Functional abilities
 - Level 1- 0 points
 - Level 2- 1 point for each item a. through i.
 - Level 3- 2 points for each item a. through m.; i. (walking) must be equal to or greater than Level 3 before points are given for j. (wheeling)

- Level 4 - 1 point for a., 1 point for e., 1 point for f., 2 points for g. through m.
- #27 Professional and Technical Care Needs- 1 point for continuous oxygen
 - #28 Medication Administration- 1 point for b. or c.
 - #34- Dementia- 1 point if Alzheimer's or other dementia
 - #34- Prognosis- 1 point if terminal

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 obtained on the PAS assessment tool.
- 2) The Claimant was awarded 16 points as the result of a PAS completed by WVMi in January 2011 in conjunction with her annual medical evaluation.
- 3) As a result of information presented during the hearing, no additional points are awarded to the Claimant. The WVMi Nurse testified that the Claimant provided no diagnoses of angina or dyspnea. Although deaf in one ear, the Claimant demonstrated functional hearing in her home during the PAS. The Claimant did not report experiencing three or more bowel incontinence episodes in a seven-day period.
- 4) The Claimant's total number of points remains at 16, rendering her eligible to receive a Level "B" Level of Care.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to reduce the Claimant's homemaker service hours 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

ENTERED this 6th Day of May, 2011.

**Pamela L. Hinzman
State Hearing Officer**