



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Office of Inspector General

Board of Review

1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

Rocco S. Fucillo  
Cabinet Secretary

September 14, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 13, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your homemaker hours under the Aged/Disabled Waiver program from Level D to Level C care.

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. These regulations state that 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 WVM I (Aged/Disabled Home and Community Based Waiver Policy and Procedures Manual § 501.5).

The information submitted at your hearing revealed that you no longer meet the medical criteria to continue receiving services at Level D care.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce your homemaker hours to Level C care.

Sincerely,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Bureau of Senior Services  
West Virginia Medical Institute  
Right at Home

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

**IN RE:** -----,

**Claimant,**

**v.**

**ACTION NO.: 12-BOR-1402**

**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 for ----- held on September 13, 2012, by telephone conference. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources' Common Chapters Manual, Chapter 700. This fair hearing was convened on a timely appeal, filed May 9, 2012.

It should be noted here that the Claimant's benefits under the Aged/Disabled Waiver program have continued at Level D care pending a decision.

**II. PROGRAM PURPOSE:**

The Aged/Disabled Waiver (ADW) Program is defined as a long-term care alternative that provides services that enable an individual to remain at or return home rather than receiving nursing facility (NF) care. Specifically, ADW services include Homemaker, Case Management, Consumer-Directed Case Management, Medical Adult Day Care, Transportation, and RN Assessment and Review.

**III. PARTICIPANTS:**

-----, Claimant  
-----, Medical Attorney-in-Fact  
-----, Case Manager, Right at Home  
-----, Homemaker RN, Right at Home

Kay Ikerd, RN, Bureau of Senior Services  
Teresa McCallister, RN, West Virginia Medical Institute

Presiding at the hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department's proposal to reduce Claimant's homemaker hours is correct.

**V. APPLICABLE POLICY:**

Aged/Disabled Waiver Services Policy Manual § 501.5.1

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

**Department's Exhibits:**

- D-1 Aged/Disabled Waiver Services Policy Manual § 501.5.1
- D-2 Pre-Admission Screening dated April 23, 2012
- D-3 Notice of Decision dated May 23, 2012
- D-4 Pre-Admission Screening dated February 23, 2011

**VII. FINDINGS OF FACT:**

- 1) Claimant was re-evaluated for medical eligibility for the Aged/Disabled Waiver program on April 23, 2012. A Pre-Admission Screening (PAS) was completed that date by Teresa McCallister, RN, with the West Virginia Medical Institute (WVMI) (D-2).

Claimant received twenty-three (23) points on the April 2012 PAS, which equates to a Level C care (D-3). A minimum of twenty-six (26) points are required to receive services at Level D care (D-1).

- 2) -----, homemaker RN with Right at Home case management agency, testified Claimant takes a beta blocker, Metoprolol, which is sometimes used to treat angina (D-2). ----- stated other than a possible point for the medical condition angina, she agreed with WVMI's medical assessment of Claimant.
- 3) -----, Case Manager with Right at Home, testified Claimant's hearing ability is undetermined due to his communication barriers with his speech. ----- stated Claimant has difficulty verbalizing due to a stroke and any possible hearing loss has not been evaluated.
- 4) -----, Claimant's daughter, stated Claimant would be unable to rise from a seated position without the use of his lift chair. ----- did not identify any other specific areas in which she felt Claimant should have received additional points.
- 5) Pertinent parts of the April 2012 PAS document (D-4):

Angina with Rest/Exertion: No Md dx [physician diagnosis], No Rx med [prescription medication] present. Mem[ber] denies chest pain or heart attack. He must wear compression stockings due to edema of L.E.[lower extremities]

Transferring: Observed mem rise slowly from chair by pushing off chair arms using his hands, and leaning forward; he demonstrates use of lift chair.

Hearing: Mem and HM [homemaker] report good hearing, and this is observed during visit.

6) Aged/Disabled Waiver Services Policy Manual § 501.5.1.1 states:

- #23 Medical Conditions/Symptoms- 1 point for each (can have total of 12 points)
- #24 Decubitus- 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
- #35 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- 0 - 62 hours per month
- Level B- 10 points to 17 points- 63 - 93 hours per month
- Level C- 18 points to 25 points- 94 - 124 hours per month
- Level D- 26 points to 44 points- 125 - 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. Claimant was awarded 23 points as the result of a PAS completed by WVMi in April

2012, in conjunction with his annual medical evaluation. Based on the points received on the PAS, Claimant was evaluated at a Level C care.

- 2) Claimant denied any symptoms of angina and did not have a prescription medication specifically to treat angina. Without a physician's diagnosis or prescribed medication, the WVMJ nurse could not give Claimant a point for angina. No additional points are awarded in this area.
- 3) Claimant denied problems with hearing and the WVMJ nurse had no difficulty being heard by Claimant during the assessment. No additional points for hearing can be awarded.
- 4) Claimant was correctly assessed as a level 2 in transferring – supervision/use of assistive device, based on his use of a lift chair to rise from a seated position. No additional points can be awarded in transferring.
- 5) Claimant no longer meets the medical criteria to continue receiving services at Level D care.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce Claimant's homemaker hours under the Aged/Disabled Waiver program to Level C care.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 14<sup>th</sup> day of September 2012**

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**Kristi Logan**  
**State Hearing Officer**