



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

August 16, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 9, 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 (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 a 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 a 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
Your Choice Home Care Services

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1499

**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 August 9, 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 29, 2012.

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

-----, Case Manager, Your Choice Home Care Services

Kay Ikerd, RN, Bureau of Senior Services

Teena Testa, 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 May 11, 2012
- D-3 Pre-Admission Screening dated April 19, 2011
- D-4 Notice of Decision dated May 24, 2012

VII. FINDINGS OF FACT:

- 1) Claimant was reevaluated for medical eligibility for the Aged/Disabled Waiver program on May 11, 2012. A Pre-Admission Screening (PAS) was completed that date by Teena Testa, RN, with the West Virginia Medical Institute (WVMI) (D-2).

Claimant received 25 points on the May 2012 PAS, which equates to a Level C care. Claimant needed one (1) additional point to continue receiving homemaker services under Level D care (D-3).

- 2) -----, Claimant's Case Manager, testified that Claimant is totally incontinent of the bowel. She stated Claimant has accidents 3-4 times weekly. ----- stated Claimant requires two-person assistance to walk as he is prone to falling. ----- stated Claimant needs situational assistance in maneuvering his wheelchair in the home. Claimant cannot maneuver in tight spaces or around corners, and sometimes will get stuck up against a wall requiring someone to assist him.
- 3) Teena Testa, RN with WVMI, testified to the PAS she completed for Claimant in May 2012. Ms. Testa stated Claimant advised her that he only had one (1) accident per week with his bowels. Due to the reported frequency of Claimant's bowel incontinence, Ms. Testa stated Claimant was assessed as having occasional incontinence. Claimant denied needing any assistance in the home with his wheelchair. Ms. Testa questioned Claimant about any difficulty in maneuvering his wheelchair through doorways, which Claimant denied. Ms. Testa stated she was aware that Claimant had knocked strips of trim from

the wall off due to not clearing corners with his wheelchair, but Ms. Testa was unaware he ever became stuck and needed assistance.

Ms. Testa stated the points for Level 3 and Level 4 in the area of walking are the same. Claimant received the maximum points for walking on the PAS.

4) Pertinent parts of the April 2011 PAS document (D-3):

Continence: M[ember] reports incontinence of both bowel and bladder. He wears diapers.

Wheeling: M[ember] reports ability to wheel self in straight stretches but needs assist[ance] around corners.

5) Pertinent parts of the May 2012 PAS document (D-2):

Continence: He notes bowels move every other day. He notes he has to take a laxative every once in a while. He states he does have accidents on himself with his bowels. He states he would have an accident once a week.

Wheeling: He does have an electric wheelchair he uses in the home. He states he can maneuver the chair to get himself out of the doorways. He denies getting his chair tied up in the doorways. He did back his chair into the corner of his room and knocked off some [of] the strips on the corner of the wall.

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- 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. Claimant was awarded 25 points as the result of a PAS completed by WVMI in May 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 needing assistance with maneuvering his wheelchair in the home. Claimant's representatives who were present during the assessment did not contradict Claimant's assertion that he could operate his wheelchair independently. The WVMI nurse correctly assessed Claimant as wheeling independently based on the information provided to her during the May 2012 medical evaluation.
- 3) Claimant advised the WVMI nurse that his bowel incontinence occurred one (1) time a week. Claimant was correctly assessed as having occasional bowel incontinence based on this disclosure. No additional points can be awarded Claimant for the May 2012 PAS.
- 4) Claimant no longer meets the medical criteria to continue receiving 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 16th day of August 2012

Kristi Logan
State Hearing Officer