



**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

**Karen L. Bowling**  
Cabinet Secretary

June 29, 2016



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 16-BOR-1641

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

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

Encl: Claimant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Tammy Grueser, BoSS  
Quality Care Management, LLC

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

██████████,

**Appellant,**

v.

**Action Number: 16-BOR-1641**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on June 28, 2016, on an appeal filed April 6, 2016.

The matter before the Hearing Officer arises from the March 31, 2016 decision by the Respondent to decrease the Appellant's homemaker service hours under the Aged/Disabled Waiver Medicaid Program.

At the hearing, the Respondent appeared by Tammy Grueser, RN, Bureau of Senior Services. Appearing as a witness for the Respondent was ██████████, RN, ██████████. The Appellant appeared pro se. Appearing as a witness for the Appellant was ██████████, care provider, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Aged & Disabled Waiver Services Manual Policy Sections 501.9, 501.9.1.1 and 501.9.1.2
- D-2 Pre-Admission Screening (PAS) completed on March 30, 2016, Aged and Disabled Waiver-Medication Profile, PAS Summary
- D-3 PAS completed on April 1, 2015 and PAS Summary
- D-4 Notice of Decision dated March 31, 2016
- D-5 Notice of Decision dated April 11, 2015

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

## FINDINGS OF FACT

- 1) On March 31, 2016, the Respondent issued notice (D-4) to the Appellant, informing her of its proposal to decrease her homemaker service hours under the Aged/Disabled Waiver Medicaid Program as the result of a Pre-Admission Screening (PAS) completed on March 30, 2016 (D-2) by [REDACTED], Registered Nurse with [REDACTED].
- 2) Testimony provided by the Department's representatives indicated that the Appellant received a total of 25 points on her March 2016 PAS, which equates to a Level "C" Level of Care (18-25 points, 94-124 homemaker service hours per month). The Appellant previously qualified for a Level "D" Level of Care (26 to 44 points, 125-155 homemaker service hours per month).
- 3) During the hearing, the Appellant testified that she is now totally blind, is incontinent daily, and has grown feebler. She stated that she does not get around well, and needs her homemaker to assist her with getting into bed at night. The Department's representatives testified that the Appellant already received the maximum number of points available on the PAS in the areas of vision and continence of bladder and bowel.

## APPLICABLE POLICY

Aged/Disabled Home and Community-Based Services Waiver Policy Manual Sections 501.9.1.1 and 501.9.1.2 (D-1) set forth the Service Level criteria:

- #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- 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

**DISCUSSION**

The Appellant was awarded 25 points on her March 2016 PAS. As no additional points could be awarded as the result of information provided during the hearing, the Appellant was assessed correctly by the Department and is eligible for a Level “C” Level of Care.

**CONCLUSIONS OF LAW**

As a result of information provided during the hearing, the Department acted correctly in proposing to reduce the Appellant’s Level of Care under the Aged/Disabled Waiver Medicaid Program.

**DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Department’s proposal to decrease the Appellant’s homemaker service hours through the Aged/Disabled Waiver Medicaid Program.

**ENTERED this 29th Day of June 2016.**

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**Pamela L. Hinzman  
State Hearing Officer**