



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

February 6, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 14-BOR-3717

Dear Mr. [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  
[REDACTED]

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

██████████,

**Claimant,**

v.

**Action Number: 14-BOR-3717**

**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 February 5, 2015, on an appeal filed November 21, 2014.

The matter before the Hearing Officer arises from the October 14, 2014 decision by the Respondent to decrease the Claimant'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, West Virginia Medical Institute. The Claimant appeared pro se and was represented by his sister, ██████████, who is also employed as his caregiver with ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Aged & Disabled Waiver Services Manual Policy Sections 501.5.1.1(a) and 501.5.1.1(b)
- D-2 Pre-Admission Screening (PAS) completed on October 12, 2014
- D-3 PAS Summary dated October 12, 2014
- D-4 Medical Necessity Evaluation Request dated September 18, 2014
- D-5 Pre-Admission Screening completed on November 18, 2013
- D-6 Notice of Decision dated October 14, 2014

**Claimant's Exhibits:**

- C-1 Letter from ██████████, M.D., dated November 11, 2014
- C-2 Letter from ██████████, M.D., dated January 22, 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 October 14, 2014, the Respondent issued notice (D-6) to the Claimant, informing him of its proposal to decrease his homemaker service hours under the Aged/Disabled Waiver Medicaid Program as the result of a Pre-Admission Screening (PAS) completed on October 12, 2014 (D-2) by [REDACTED], Registered Nurse with West Virginia Medical Institute (WVMI).
- 2) Nurse [REDACTED] testified that the Claimant received a total of 17 points on the October 2014 PAS, which equates to a Level "B" Level of Care (10-17 points, 63-93 homemaker service hours per month). Tammy Grueser, Registered Nurse, Bureau of Senior Services, testified that the Claimant previously qualified for a Level "C" Level of Care (18-25 points, 94-124 homemaker service hours per month). Nurse Grueser indicated that the Claimant's Level of Care was elevated to a Level "C" during a pre-hearing conference in February 2014.
- 3) During the hearing, the Department conceded three (3) additional points to the Claimant for the medical diagnoses of angina at rest, angina upon exertion and pain, bringing his total number of points to 20.

### **APPLICABLE POLICY**

Aged/Disabled Home and Community-Based Services Waiver Policy Manual Sections 501.5.1.1(a) and 501.5.1.1(b) (D-1) set forth the Service Level criteria. There are four (4) Service Levels for Personal Assistance/Homemaker services, and points are 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- 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 Claimant was awarded 17 points on his October 2014 PAS. As the Department conceded three (3) additional points during the hearing, the Claimant's total number of points has increased to 20, rendering him eligible for a Level "C" Level of Care.

#### **CONCLUSIONS OF LAW**

As a result of information provided during the hearing, the Claimant is eligible to receive a Level "C" Level of Care.

#### **DECISION**

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

ENTERED this 6th Day of February 2015.

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**Pamela L. Hinzman**  
**State Hearing Officer**