



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

Karen L. Bowling
Cabinet Secretary

February 10, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 14-BOR-3814

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Bureau of Senior Services
[REDACTED]

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

[REDACTED],

Claimant,

v.

Action Number: 14-BOR-3814

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 [REDACTED]. 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 December 4, 2014.

The matter before the Hearing Officer arises from the November 17, 2014, decision by the Respondent to reduce the Claimant's homemaker hours under the Aged/Disabled Waiver program from a Level C to a Level B.

At the hearing, the Respondent appeared by Tamra Gruesser, RN, with the Bureau of Senior Services. Appearing as a witness for the Respondent was [REDACTED], RN, with the West Virginia Medical Institute. The Claimant appeared *pro se*. Appearing as witnesses for the Claimant were [REDACTED], Case Manager with [REDACTED], RN with [REDACTED] and [REDACTED], the Claimant's homemaker. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV Medicaid Provider Manual, Chapter 501 - Aged/Disabled Waiver Services Policy §§501.5.1 and 501.5.1.1
- D-2 Pre-Admission Screening (PAS) dated October 7, 2014
- D-3 PAS Summary dated November 8, 2014
- D-4 Medical Necessity Evaluation Request dated July 24, 2014
- D-5 PAS dated September 17, 2013
- D-6 Notice of Decision Re-Evaluation Assessment dated November 17, 2014

Claimant's Exhibits:

C-1 Prescription Pad Note from Dr. [REDACTED] dated November 20, 2014

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 7, 2014, the Claimant was evaluated to determine continued medical eligibility for the Aged/Disabled Waiver (ADW) Program. West Virginia Medical Institute (WVMI) Nurse [REDACTED] completed a PAS (D-2) form with the Claimant to assess her functional abilities in the home. Nurse [REDACTED] assessed the Claimant with seventeen (17) level-of-care points based on the information derived from the medical evaluation.
- 2) On November 17, 2014, the Respondent issued notice to the Claimant of its decision to reduce her ADW homemaker hours from Level C to Level B as a result of the assessment by Nurse [REDACTED]. Eighteen (18) points (D-1) are required for the Claimant to continue receiving services at a Level C care.
- 3) The Claimant and her witnesses contended that the Claimant should have received an additional point in the area of bladder incontinence. [REDACTED], who was present during the medical assessment, testified that the Claimant was not truthful about the number of accidents she had weekly in the presence of her daughter. Ms. [REDACTED] purported that after Nurse [REDACTED] left that day, she discussed the matter with the Claimant who admitted that she was having bladder accidents daily but did not want to wear undergarments due to skin irritations.
- 4) The Claimant testified that she did not want to admit that she was having accidents daily during the assessment because she knew her daughter would make her wear undergarments, which she did not find comfortable. The Claimant stated she has accidents daily with her bladder.
- 5) Nurse [REDACTED] testified that bladder incontinence was discussed at length during the assessment, and that the Claimant and her daughter agreed that the Claimant had accidents two (2) times a week. Nurse [REDACTED] reported that the Claimant was agitated during the conversation and was hesitant to discuss her bladder accidents.

APPLICABLE POLICY

Aged/Disabled Waiver Policy Manual §§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 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

DISCUSSION

The Claimant was assessed as a Level 2 in the area of bladder incontinence – occasional incontinence based on the frequency of bladder accidents as reported during the October 2014 medical evaluation. Based on the credible testimony and information provided, the Claimant was experiencing daily bouts of incontinence during the time of the assessment and will be awarded one (1) additional point in the area of bladder incontinence.

CONCLUSIONS OF LAW

Whereas the Claimant should have been assessed a Level 3 for bladder incontinence, the Claimant was found to have eighteen (18) points on the October 2014 PAS and continues to meet the medical criteria for Level C care.

DECISION

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

ENTERED this 10th day of February 2015

**Kristi Logan
State Hearing Officer**