



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General

Board of Review  
P.O. Box 1736  
Romney, WV 26757

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

November 30, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 29, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny your Long Term Care admission based on medical ineligibility.

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.

The determination of medical eligibility for Long Term Care Medicaid is based on current policy and regulations. These regulations state that to qualify medically for the nursing facility Medicaid benefit, an individual must need direct nursing care twenty-four hours a day, seven days a week. The Bureau has designated a tool known as the Pre-Admission Screening form (PAS) to be utilized for physician certification of the medical needs of Medicaid applicants. An individual must have a minimum of five deficits identified on the PAS in order to qualify for the Medicaid nursing facility benefit (Nursing Facility Services Provider Manual Chapter 514).

The information which was submitted at your hearing revealed that you do not meet the medical eligibility requirements for the Long Term Care program.

It is the decision of the State Hearing Officer to Uphold the action of the Department to deny your Long Term Care admission based on medical eligibility.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Amy Workman, Bureau of Medical Services

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

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

**Claimant,**

**v.**

**ACTION NO.: 11-BOR-2219**

**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 ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on a timely appeal, filed October 14, 2011.

**II. PROGRAM PURPOSE:**

The program entitled Long Term Care Medicaid (nursing facility services) is a medical service which is covered by the State's Medicaid Program. Payment for care is made to nursing homes which meet Title XIX (Medicaid) standards for the care provided to eligible recipients. In order to qualify for Nursing Home Care, an individual must meet financial and medical eligibility criteria.

**III. PARTICIPANTS:**

-----, Claimant

-----, Claimant's daughter

-----, Claimant's daughter

-----, Social Worker [REDACTED] Point Nursing Facility

-----, LPN, [REDACTED] Point Nursing Facility

Kelly Johnson, Program Manager-Long Term Care Facilities, Bureau of Medical Services (BMS)

Jenny Craft, RN, West Virginia Medical Institute (WVMI)

Presiding at the hearing was Eric L. Phillips , 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 was correct in its decision to deny Medicaid Long Term Care admission based on medical eligibility.

**V. APPLICABLE POLICY:**

Bureau for Medical Services Provider Manual Chapter 514

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

**Department's Exhibits:**

- D-1 Bureau for Medical Services Provider Manual Chapter 514
- D-2 Pre-Admission Screening Assessment completed September 27, 2011
- D-3 Notice of Denial dated September 28, 2011
- D-4 Supporting Documentation

**VII. FINDINGS OF FACT:**

- 1) On September 27, 2011, Exhibit D-2, Pre-Admission Screening Assessment, hereinafter PAS, was forwarded to West Virginia Medical Institute, hereinafter WVMI, by [REDACTED] Point Nursing Facility, in order to determine the Claimant's medical eligibility for Long Term Care Medicaid assistance.
- 2) On September 28, 2011, the Department issued the Claimant Exhibit D-3, Notice of Denial informing her that her request for Long-Term Care admission had been denied. This exhibit documents in pertinent part:

Your request for Long-Term Care (Nursing Home) admission has been denied.

An evaluation of your current limitations related to your medical condition(s) was conducted based on the information submitted to West Virginia Medical Institute (WVMI) on the Pre-Screen Admission Screening (PAS) form. It has been determined you are ineligible for long-term care (nursing home) admission based upon WV Medicaid criteria.

Reason for Denial: Eligibility for long-term care placement being funded by West Virginia Medicaid requires that you have at least five (5) areas of care needs (deficits) that meet the severity criteria. Documentation does not reflect that you have five (5) deficits at the level required; thus your request for long-term care (nursing home) is being denied. The PAS (Pre-Admission Screening Form) reflected deficiencies that meet the severity criteria in four areas-Bathing, Dressing, Continence, and Administering Medications.

- 3) Ms. Jenny Craft, RN, WVMI reviewed the PAS assessment and confirmed the Claimant's four deficits in the areas of bathing, dressing, continence, and administering medications toward her medical eligibility for long-term care.
- 4) The Claimant's representatives provided testimony concerning the Claimant's need for long-term care citing that the Claimant was previously discharged from the facility and her needs could not be met, prompting her return to the facility. -----, Social Worker, [REDACTED] Point Nursing Facility contended that the Claimant requires supervision with her bathing and grooming skills citing that the Claimant "refuses to be cleaned or bathed." -----further clarified her testimony by indicating that the Claimant required supervision and physical assistance because the Claimant would not complete the skills independently.

The PAS assessment documents that the Claimant was assessed a Level 1 concerning her physical ability to groom. A review of policy concludes that in order for a deficit to be awarded in the area of grooming, the individual must be assessed as a Level 2 or higher meaning that the individual requires physical assistance or more to complete the activity of daily living. While the Claimant's representatives maintain that the Claimant requires physical assistance in grooming and bathing, due to her refusal to cooperate and participate in the activity, there was no evidence or testimony provided to support the fact that the Claimant is physically unable to participate in the contested area. Therefore, an additional deficit in the contested area cannot be awarded.

- 5) Bureau for Medical Services Provider Manual Chapter 514.8.2 documents:

To qualify medically for the nursing facility Medicaid benefit, an individual must need direct nursing care twenty-four (24) hours a day, seven (7) days a week. The Bureau has designated a tool known as the Pre-Admission Screening form (PAS) to be utilized for physician certification of the medical needs of individuals applying for the Medicaid benefit.

An individual must have a minimum of five (5) deficits identified on the PAS in order to qualify for the Medicaid nursing facility benefit. These deficits may be any of the following:

- #24: Decubitus – Stage 3 or 4
- #25: In the event of an emergency, the individual is c) mentally unable or d) physically unable to vacate a building. a) and b) are not considered deficits.
- #26: Functional abilities of individual in the home
  - Eating-Level 2 or higher (physical assistance to get nourishment, not preparation)
  - Bathing-Level 2 or higher (physical assistance or more)
  - Grooming-Level 2 or higher (physical assistance or more)
  - Dressing-Level 2 or higher (physical assistance or more)
  - Continence-Level 3 or higher (must be incontinent)
  - Orientation-Level 3 or higher (totally disoriented, comatose)

Transfer-Level 3 or higher (one person or two person assist in the home)

Walking-Level 3 or higher (one person assist in the home)

Wheeling-Level 3 or higher (must be Level 3 or 4 on walking in the home to use Level 3 or for wheeling in the home.)

Do not count outside the home.

- #27: Individual has skilled needs in one or more of these areas –(g) suctioning, (h) tracheostomy, (i) ventilator, (k) parenteral fluids, (l) sterile dressings, or (m) irrigations.
- #28: Individual is not capable of administering his/her own medications.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy dictates that to qualify medically for nursing facility benefits, an individual must need direct nursing care twenty-four hours a day, seven days a week. A tool known as the Pre-Admission Screening form is utilized for physician certification of the medical needs of individuals applying for the Medicaid benefit. The PAS is completed and forwarded to the Bureau for Medical Services or its designee (West Virginia Medical Institute) for medical necessity review.
- 2) Policy dictates that an individual must have a minimum of five (5) deficits identified on the PAS, to qualify medically for the Medicaid nursing facility benefit.
- 3) The Claimant's September 27, 2011, PAS assessment revealed four (4) qualifying deficits.
- 4) Evidence and testimony submitted during the hearing process failed to establish an additional qualifying deficit; therefore, the Department was correct in its decision to deny the Claimant's medical eligibility for Long-Term Care medical eligibility.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the decision of the Department to deny the Claimant's medical eligibility for the Medicaid Long Term Care program.

### **X. RIGHT OF APPEAL:**

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of November, 2011.**

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**Eric L. Phillips  
State Hearing Officer**