



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

April 15, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held April 15, 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 Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Amy Workman, BMS

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

-----,

**Claimant,**

v.

**Action Number: 11-BOR-614**

**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 April 15, 2011 on a timely appeal, filed February 15, 2011.

It should be noted here that the Claimant's benefits under the Long Term Care program continue at the previous level of determination pending a decision from the State Hearing Officer.

**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 representative

Kelly Johnson, Program Manager Bureau for 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 dated February 3, 2011
- D-3 Notice of Determination dated February 9, 2011
- D-4 Supporting documentation

**VII. FINDINGS OF FACT:**

- 1) On February 3, 2011, Exhibit D-2 Pre-Admission Screening, hereinafter PAS, was completed in order to determine the Claimant's continued medical eligibility for Long Term Care Medicaid assistance.
- 2) On February 9, 2011, the Claimant was issued Exhibit D-3, Notice of Decision informing her of the decision to deny her Long Term Care eligibility. Exhibit D-3 documents in pertinent part:

Notice: 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 WVMI on the Pre-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 Decision: Eligibility for long-term care placement being funded by 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 5 deficits at the level required. Your request for long-term care is being denied. The PAS (Pre-Admission Screening Form), reflected deficiencies that meet the severity criteria in 0 areas.

- 3) Ms. Jenny Craft, RN, West Virginia Medical Institute (WVMI) reviewed the PAS assessment (Exhibit D-2) and confirmed that the Claimant had zero deficits in the determination of her medical eligibility for Long Term Care.
- 4) The Claimant indicated that she was in the process of relocating from the nursing facility to a homeless shelter, but could not locate a handicap accessible shelter due to her continuous oxygen. The Claimant stated that her overall condition has improved and she is no longer on continuous oxygen and that she is able to start the discharge process from the nursing facility. The Claimant provided no testimony concerning her medical eligibility for the Long Term Care program and did not dispute any of the findings in the PAS assessment.
- 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)
  - Contenance-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 in order 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, in order to qualify medically for the Medicaid nursing facility benefit.
- 3) Evidence presented during the hearing process revealed that the Claimant received zero deficits as part of her PAS assessment completed on February 3, 2011. Testimony from the Claimant revealed that her overall condition has improved and she is able to be discharged from the facility. Based on the absence of testimony concerning the Claimant's medical eligibility for the program, the Department was correct in its decision to deny/terminate the Claimant's 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 April, 2011.**

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**Eric L. Phillips  
State Hearing Officer**