



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

May 28, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-1103

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: Taniua Hardy, BMS

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1103

**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 May 14, 2015, on an appeal filed January 14, 2015.

The matter before the Hearing Officer arises from the January 7, 2015 decision by the Respondent to deny Claimant's request for Medicaid I/DD Waiver Program services that exceed the individualized budget.

At the hearing, the Respondent appeared by ██████████, Registration Coordinator, APS Healthcare. Appearing as a witness for the Respondent was Taniua Hardy, I/DD Program Manager, Bureau for Medical Services (BMS). The Claimant was present, but was represented by her sister, ██████████. Appearing as a witness for the Claimant was ██████████, Claimant's sister-in-law and Habilitation Specialist, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Denial dated January 7, 2015
- D-2 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapters 513.9.1.8.1 and 513.9.10.1
- D-3 APS Healthcare 2nd Level Negotiation Request dated December 16, 2014
- D-4 APS CareConnection for Title XIX I/DD Waiver Purchase Request Details

Claimant's Exhibits:

- C-1 Written correspondence from ██████████ dated January 13, 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 January 7, 2015 the Claimant was notified (D-1) that her request for 12,480 units of Person-Centered Support (PCS)-Agency under the I/DD Waiver Medicaid Program was denied. The notice indicates that the Claimant was approved for 8,645 units of the 12,480 units requested. In addition, the notice states that the Claimant requested 4,416 units of Respite-Agency services; however, zero hours of the services were approved.
- 2) The Respondent's representatives testified that there were no documented clinical changes in the Claimant's condition from the previous budget year. They indicated that if the Claimant had been authorized to receive the number of PCS-Agency units and Respite-Agency units she requested, her annual service budget would have been exceeded by \$41,334.66.

Evidence proffered by the Respondent reveals that the Respondent has been directed to operate within budgetary guidelines in regard to I/DD Waiver Program services; therefore, individualized program budgets can no longer be exceeded.

- 3) The Claimant's representatives testified that the Claimant is prone to falls and that her 80-year-old father can no longer hear, or assist her with activities. She cannot prepare meals and has gone outside unattended in the past. The Claimant's representatives provided Exhibit C-1, which details her problematic issues.

APPLICABLE POLICY

I/DD Waiver Manual Chapter 513.9.1.8.1 (D-1) states that Person-Centered Support (PCS) services consist of individually tailored training and/or support activities provided by awake and alert staff that enable the member to live and inclusively participate in the community in which the member resides, works, receives their education, accesses health care, and engages in social and recreational activities. The activities and environments are designed to increase the acquisition of skills and appropriate behavior that are necessary for the member to have greater independence, personal choice and allow for maximum inclusion into their community. The amount of service is limited to the member's individualized budget and the budget allocation can be adjusted only if changes have occurred regarding the member's assessed needs.

I/DD Waiver Manual Chapter 513.9.10.1 (D-2) states that the amount of Respite services are limited to the member's individualized budget, and the budget allocation can be adjusted only if changes have occurred regarding the member's assessed needs.

DISCUSSION

Evidence submitted at the hearing reveals that an I/DD Waiver Program recipient's annual budget is determined by his or her assessed needs. Policy provides that an individual's annual budget can be adjusted (increased or decreased); however, budget modifications can only occur if there is a change in the individual's assessed needs. Regulations that govern the I/DD Waiver Program stipulate that services cannot exceed the individualized budget of the recipient. The Claimant's requested PCS and Respite units would have caused her annual budget to be exceeded by more than \$41,000.

CONCLUSIONS OF LAW

Evidence submitted at the hearing affirms the Department's decision to deny the Claimant's request for prior authorization of services that would exceed her individualized annual budget.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny the Claimant's request for services in excess of the Claimant's individualized budget.

ENTERED this _____ Day of May 2015.

**Pamela L. Hinzman
State Hearing Officer**