



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
416 Adams St., Suite 307
Fairmont, WV 26554

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

May 22, 2015



RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-1435

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,

Thomas E. Arnett
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**

██████████,

Appellant,

v.

Action Number: 15-BOR-1435

**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 21, 2015, on an appeal filed February 25, 2015.

The matter before the Hearing Officer arises from the February 9, 2015 decision by the Respondent to deny Appellant's request for Medicaid I/DD Waiver Program services that exceed his individualized budget.

At the hearing, the Respondent appeared by ██████████, APS Healthcare. Appearing as witnesses for the Department was Tania Hardy, Bureau for Medical Services (BMS). The Appellant was represented by his mother, ██████████. Appearing as witnesses for the Appellant were ██████████, Area Director, ██████████ and ██████████, Service Coordinator, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, §513.9.1.8.2 – Person-Centered Support: Family: Traditional Option
- D-2 APS Healthcare 2nd Level Negotiation Request dated 1/27/15
- D-3 Budget Year 1/10/15 – 1/9/16
- D-7 Notice of Denial dated 2/9/15

Exhibits D-4, D-5 and D-6 were not submitted into the record

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 February 9, 2015, Appellant was notified (D-7) that his request for 11,680 units of Person-Centered Support-Family (PCS-Family) was denied. The notice letter specifies that the Appellant's individualized annual budget would be exceeded if the requested amount was approved. It should be noted, however, that the letter goes on to indicate that the Appellant was approved for 6697 PCS-Family units.
- 2) Respondent proffered testimony to indicate that the each IDD Waiver member is evaluated annually when a needs assessment is conducted. Money is then allocated for the individualized budget based on the established needs. The Appellant's budget (D-3) was determined to be \$52,098.46, and pursuant to policy (D-1), the amount of PCS-Family service is limited by the member's individualized budget. Policy goes on to indicate that the annual budget allocation may be adjusted (increased or decreased) only if changes have occurred regarding the member's assessed needs. Respondent noted that some of the Appellant's services could be covered by his Medicaid card, thereby allowing him to shift the cost of those services toward the purchase of additional PCS-Family service units, but because his individualized budget is exhausted, no additional services can be approved.
- 3) There was no evidence submitted to indicate there has been a change in the Appellant's assessed needs.

APPLICABLE POLICY

West Virginia Medicaid Regulations, Chapter 513 – §513.9.1.8.2 *Person-Center Support: Family: Traditional Option*: Person-Centered Support (PCS): Family consists of individually tailored training and/or support activities 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 by the member's individualized budget. The annual budget allocation may be adjusted (increased or decreased) only if changes have occurred regarding the member's assessed needs.

DISCUSSION

Evidence submitted at the hearing reveals that an IDD Waiver Program member's annual budget is determined by his 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 member's assessed needs. The regulations that govern the Medicaid I/DD Waiver Program stipulate that services cannot exceed the individualized budget of the member, and the budget can only be increased if there has been a change in the member's assessed needs. Because there are no provisions in policy that allow a member to exceed his individualized budget, Respondent's decision to deny PCS-Family services in excess of the annual budget is affirmed.

CONCLUSIONS OF LAW

The evidence submitted at the hearing affirms the Department's decision to deny the Appellant's request for services that exceed the individualized annual budget.

DECISION

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

ENTERED this _____ Day of May 2015.

**Thomas E. Arnett
State Hearing Officer**