



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

April 29, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1513

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 for Medical Services

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1513

**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 April 28, 2015, on an appeal filed March 10, 2015.

The matter before the Hearing Officer arises from the January 30, 2015, decision by the Respondent to deny Person Centered Support – Family units under the I/DD Waiver program.

At the hearing, the Respondent appeared by ██████████, APS Healthcare. Appearing as witnesses for the Respondent were ██████████, APS Healthcare and Taniua Hardy, Bureau for Medical Services. The Claimant appeared *pro se*. Appearing as witnesses for the Claimant were ██████████, the Claimant's mother and ██████████, Service Coordinator with ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Denial dated January 30, 2015
- D-2 WV Medicaid Provider Manual Chapter 513 – I/DD Waiver Services - §513.9.1.8.2
- D-3 Service Authorization Second Level Negotiation Request dated January 21, 2015, and Individualized Program Plan dated January 14, 2015
- D-4 Purchase Request Details for Budget Year February 2015 – January 31, 2016

Claimant's Exhibits:

- C-1 Correspondence from ██████████, D.O. dated April 17, 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) A request (D-3) for additional units of Person Centered Support-Family services under the I/DD Waiver program was submitted for the Claimant on January 21, 2015. The Department issued a Notice of Denial (D-1) on January 30, 2015, advising the Claimant that the request for additional units had been denied.
- 2) The Department's representative, [REDACTED] with APS Healthcare, noted that of the 7,300 units of Person Centered Support-Family that was requested, 2,593 units were approved. Ms. [REDACTED] stated that the total amount of Person Centered Support-Family units requested could not be approved as it would put the Claimant over her annual assigned budget amount (D-4).
- 3) Based on the Claimant's Inventory for Client and Agency Planning (ICAP) service level scores for the current year, the Claimant's assigned budget was increased by approximately \$1,500 from the previous year. However, Ms. [REDACTED] testified that due to budgetary restraints, all participants of the I/DD Waiver program must stay within their respective budget amounts regardless of the amount of services approved over-budget previously.
- 4) The Claimant's mother gave testimony regarding the direct care and support she provides the Claimant daily. The Claimant has experienced a decline in her cognitive and physical abilities and she is no longer able to work due to the support she provides the Claimant.
- 5) The Claimant's service coordinator testified that the Claimant has been employed for the past six (6) years, and a good portion of her budget is attributed to units for Supported Employment. The Claimant is deteriorating physically and the amount of Person Centered Support – Family that was requested is the same amount requested for the previous two (2) years, of which the Claimant exceeded her budget.

APPLICABLE POLICY

WV Medicaid Provider I/DD Waiver Services Manual §§513.9.1.8.2 states that the amount of Person Centered Support – Family service is limited by the member's individualized budget. The budget allocation may be adjusted only if changes have occurred regarding the member's assessed needs.

DISCUSSION

The Claimant's assigned budget was increased from the previous year to reflect the change in her assessed needs. The Claimant was approved for a portion of the requested amount of units of Person Centered Support – Family, however the total requested amount could not be approved as the Claimant would exceed her assigned budget. Based on budgetary constraints placed upon the I/DD Waiver program, individuals on the program must stay within their assigned budget amounts.

CONCLUSIONS OF LAW

Whereas the approval of the requested amount of units for Person Centered Support – Family would cause the Claimant to exceed her assigned budget amount, only a portion could be approved.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny the requested amount of Person Centered Support-Family services under the I/DD Waiver program.

ENTERED this 29th day of April 2015

Kristi Logan
State Hearing Officer