



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

June 23, 2015



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1811

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 Official 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,

Donna L. Toler  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant'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-1811**

**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 June 23, 2015, on an appeal filed April 15, 2015.

The matter before the Hearing Officer arises from the April 3, 2015 decision by the Respondent to deny Appellant's request for Title XIX Medicaid Intellectual and Developmental Disabilities Waiver Program services that exceed the individualized participant budget.

At the hearing, the Respondent appeared by ██████████, APS Healthcare. Appearing as a witness for the Department was Taniua Hardy, Bureau for Medical Services (BMS). The Appellant appeared in person and was represented by her mother, ██████████. Appearing as witnesses for the Appellant were ██████████, Services Supervisor, REM, and ██████████, Service Coordinator, REM. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Denial Letter, dated April 3, 2015
- D-2 I/DD Waiver Policy Manual, §§513.9.1.12, 513.9.1.12.1 and 513.9.1.12.2
- D-3 2<sup>nd</sup> Level Negotiation Request, dated March 24, 2015
- D-4 APS Healthcare Purchase Request Details, IDT date February 12, 2015

**Appellant's Exhibits:**

None

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 Official sets forth the following Findings of Fact.

**FINDINGS OF FACT**

- 1) The Appellant is a recipient of benefits and services through Title XIX Medicaid Intellectual and Developmental Disabilities Waiver Program (I/DD Program).
- 2) On March 24, 2015, a second-level request for 8320 units of Licensed Practical Nurse (LPN) (1:1) services was submitted on the Appellant's behalf under the I/DD Program. (Exhibit D-3)
- 3) The Respondent issued a Notice of Denial on April 3, 2015, advising the Appellant that the requested units were denied because the Appellant's annual budget would have been exceeded or had been exceeded. (Exhibit D-1)
- 4) The second level services request made on the Appellant's behalf was for an additional 8320 of LPN (1:1) service units. The additional requested service units would have exceeded the Appellant's assessed annual budget by \$33,217. (Exhibits D-3 and D-4)
- 5) The Appellant's current annual budget is \$106,063.60. The Department approved 4489 of the requested LPN (1:1) service units. (Exhibit D-4)

**APPLICABLE POLICY**

West Virginia Medicaid Regulations, §§513.9.1.12.1 and 513.9.1.12.2, state that all units of Licensed Practical Nurse services must be prior authorized before being provided. Prior authorizations are based on assessed need *and* services must be within the member's individualized budget. The budget allocation may be adjusted only if changes have occurred regarding the member's assessed needs.

## DISCUSSION

The evidence presented showed that the Appellant's annual budget was determined to be \$106,063.60, for the budget year March 1, 2015 to February 29, 2016. The additional requested units of the aforementioned services exceeded the Appellant's annual budget by \$33,217, according to the Department's representative.

The Appellant's witness, [REDACTED] (Ms. [REDACTED]) testified that the Appellant requires twenty-four hour per day care. She expressed concern that if the Appellant did not have the assistance of a nurse something might happen to her. The Department's representative stated that all I/DD Program recipients require twenty-four hour per day care, but that the I/DD Program does not grant twenty-four hour per day services for recipients who live with family.

There was no evidence presented to show that the Appellant demonstrated changes resulting in an increased need of services since her annual assessment, upon which her current budget is based. The additional requested units would place the Appellant over her current annual budget. The Department's decision to deny the Appellant's request for prior authorization of LPN (1:1) services that exceed the individualized annual budget was within policy guidelines.

## CONCLUSIONS OF LAW

- 1) The requested additional LPN (1:1) service units would exceed the Appellant's annual budget for the budget year March 1, 2015 to February 29, 2016.
- 2) Per policy, the Appellant cannot exceed her annual budget allocation for the requested services.

## DECISION

It is the decision of the State Hearing Official to **uphold** the Department's action to deny the Appellant's request for prior authorization of LPN (1:1) services in excess of the Appellant's individualized budget.

**ENTERED this 23<sup>rd</sup> day of June 2015.**

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**Donna L. Toler, State Hearing Officer**