



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

July 27, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1978

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Taniua Hardy, Department Representative

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

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-1978**

**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 July 15, 2015, on an appeal filed May 4, 2015.

The matter before the Hearing Officer arises from the February 27, 2015 decision by the Respondent to deny or reduce the Appellant's services through the Intellectual Disabilities and Developmental Disabilities (I/DD) Waiver Program.

At the hearing, the Respondent appeared by ██████████ and Taniua Hardy. The Appellant was represented by his guardian, ██████████. Appearing as witnesses for the Appellant were ██████████, ██████████, ██████████ and ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of decision, dated February 27, 2015
- D-2 Bureau for Medical Services Provider Manual, Chapter 513: I/DD Waiver Services, §513.9.1.6
- D-3 Bureau for Medical Services Provider Manual, Chapter 513: I/DD Waiver Services, §513.9.1.8.1
- D-4 Bureau for Medical Services Provider Manual, Chapter 513: I/DD Waiver Services, §513.9.1.8.2
- D-5 Service Authorization second-level request form, dated February 24, 2015
- D-6 Screen prints from the Respondent's data system detailing the Appellant's itemized budget for the budget year beginning February 1, 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) The Appellant is a participant in the I/DD Waiver Program.
- 2) The Appellant submitted a second-level negotiation request for services through the I/DD Waiver Program on February 24, 2015 (Exhibit D-5). The specific services requested were 1,200 units of Person-Centered Support – Agency (“PCS-A”); 8,320 units of Person-Centered Support – Family (“PCS-F”); and 5,740 units of Facility-Based Day Habilitation (“Day Hab”).
- 3) The Respondent notified the Appellant of its decision to deny the full amount of requested service units, offering the reason for denial as the “...assessed annual budget would have been exceeded or has been exceeded...” (Exhibit D-1).
- 4) The Respondent’s notification to the Appellant indicated 933 units of PCS-A, 5,400 units of PCS-F and 3,155 units of Day Hab were approvable (Exhibit D-1).
- 5) The full amount of units requested would result in the Appellant exceeding his assigned budget for the year starting February 1, 2015, and the approvable units represent a maximized combination of PCS-A, PCS-F and Day Hab units that can be purchased within the confines of the Appellant’s assigned budget (Exhibit D-6).

### **APPLICABLE POLICY**

The policy regarding prior authorization of units of service through the I/DD Waiver Program is located in the Bureau for Medical Services Provider Manual, Chapter 513: I/DD Waiver Services. At §513.9.1.6, §513.9.1.8.1 and §513.9.1.8.2, this policy reads, “The amount of service is limited by the member’s individualized budget.”

### **DISCUSSION**

Policy for the I/DD Waiver Program requires services to an approved individual be limited by that individual’s budget. The full amount of services requested by the Appellant would cause him to exceed his assigned budget, and the amount deemed approvable by the Respondent represents a maximized number of units in those categories that would keep the Appellant under budget. The Respondent is correct to deny the Appellant’s request for services that would exceed the Appellant’s assigned budget.

**CONCLUSION OF LAW**

Because the Appellant's request for services through the I/DD Waiver Program would cause him to exceed his assigned budget, the Respondent must deny the Appellant's request.

**DECISION**

It is the decision of the State Hearing Officer to **uphold** Respondent's denial of Appellant's request for second-level services through the I/DD Waiver Program.

**ENTERED this \_\_\_\_ Day of July 2015.**

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**Todd Thornton  
State Hearing Officer**