



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

July 30, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-2064

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, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-2064**

**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 29, 2015, on an appeal filed May 15, 2015.

The matter before the Hearing Officer arises from the April 3, 2015 decision by the Respondent to deny the Appellant's request for Medicaid I/DD Waiver Program services that exceed the individualized budget.

At the hearing, the Respondent appeared by ██████████, Provider Educator, APS Healthcare. Appearing as a witness for the Department was Tania Hardy, I/DD Program Manager, Bureau for Medical Services (BMS). The Appellant was present, but was represented by her sister, ██████████. Appearing as witnesses for the Appellant were ██████████, Service Coordinator, ██████████, and ██████████, Therapeutic Consultant, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Denial dated April 3, 2015
- D-2 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.8.1
- D-3 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.8.2
- D-4 APS Healthcare 2<sup>nd</sup> Level Negotiation Request dated March 18, 2015
- D-5 APS CareConnection for Title XIX I/DD Waiver Purchase Request Details for the budget year of March 1, 2015 through February 29, 2016

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 April 3, 2015, the Appellant was notified (D-1) that her requests for 5,212 units of Person-Centered Support (PCS)-Agency services and 12,308 units of Person-Centered Support (PCS)-Family services under the I/DD Waiver Medicaid Program were denied. The notice indicates that the Appellant was instead approved for 2,606 units of the requested PCS-Agency units and 7,760 of the requested PCS-Family units.
- 2) [REDACTED], Provider Educator with APS Healthcare, represented the Department and testified that the Appellant's annual I/DD Waiver budget for the budget year of March 1, 2015 through February 29, 2016 is \$45,692.34 (see Exhibit D-5). Ms. [REDACTED] indicated that if the Appellant had been awarded the total PCS-Agency and PCS-Family units she requested, her annual budget would have been exceeded by \$25,515.42. The Department's representatives testified that the Department had exceeded its I/DD Waiver Program budget in previous years, and has now been directed to adhere to budgetary guidelines.
- 3) The Appellant's sister, [REDACTED], testified that she is the Appellant's primary care provider and that she believes the Appellant's condition has worsened. She stated that the Appellant is unable to walk or shower without assistance and cannot prepare her own meals. [REDACTED], Service Coordinator with [REDACTED], testified that the Appellant was approved for all of her requested service units last year.

### **APPLICABLE POLICY**

I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.8.1, Person-Centered Support: Agency: Traditional Option (D-2):

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 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.8.2, Person-Centered Support: Family: Traditional Option (D-3):

Person-Centered Support (PCS): Family is provided by awake and alert staff and 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.

All units of service 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 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 I/DD Waiver Program recipient's annual budget is determined by his or her assessed needs. The amount of services is limited by the member's individualized budget. While the Appellant was reportedly approved for services in excess of her individualized budget last year, regulations that govern the I/DD Waiver Program stipulate that services cannot exceed the individualized budget of the recipient, and the Department's representatives testified that the Department has now been directed to adhere to budgetary guidelines.

### **CONCLUSIONS OF LAW**

Evidence submitted at the hearing affirms the Department's decision to deny the Appellant's request for prior authorization of 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 her individualized budget.

**ENTERED this 30th Day of July 2015.**

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**Pamela L. Hinzman  
State Hearing Officer**