



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

September 11, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2483

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: Appellant'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**

██████████,

Appellant,

v.

Action Number: 15-BOR-2483

**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 September 10, 2015, on an appeal filed July 6, 2015.

The matter before the Hearing Officer arises from the June 18, 2015, decision by the Respondent to deny the requested Person Centered Support-Agency and Person Centered Support-Family units.

At the hearing, the Respondent appeared by ██████████, APS Healthcare. Appearing as a witness for the Respondent was Taniua Hardy, Bureau for Medical Services. The Appellant appeared by her mother, ██████████. Appearing as a witness for the Appellant was ██████████, Service Coordinator with ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Denial dated June 18, 2015
- D-2 West Virginia Medicaid Provider Manual §513.9.1.8.1
- D-3 West Virginia Medicaid Provider Manual §513.9.1.8.2
- D-4 Service Authorization 2nd Level Negotiation Request dated June 3, 2015
- D-5 APS CareConnection Purchase Request Details Screen Print, Service Year June 2015-May 2016

Appellant's Exhibits:

- A-1 Extraordinary Care Needs Assessment dated March 13, 2014
- A-2 Inventory for Client and Agency Planning dated March 13, 2014
- A-3 Inventory for Client and Agency Planning dated March 12, 2015
- A-4 Adaptive Behavior Assessment System Report dated March 13, 2014
- A-5 Correspondence from [REDACTED], D.O. dated May 22, 2015
- A-6 Individualized Program Plan dated May 18, 2015
- A-7 Individual Habilitation Plan and Task Analysis dated June 1, 2014

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 2nd Level Negotiation Request (D-4) for 11,680 units of Person Centered Support-Family (PCS-F) and 3,744 units of Person Centered Support-Agency under the I/DD Waiver program was submitted on behalf of the Appellant on June 3, 2015.
- 2) The Department issued a Notice (D-1) on June 18, 2015, advising that of the requested 11,680 units of PCS-F, only 9,396 units were approved. The Department did not approve any of the requested PCS-A units.
- 3) The Appellant's individualized budget (D-5) for service year June 2015-May 2016 is \$35,844.18. The approval of the total amount of PCS-A and PCS-F units requested would cause the Appellant to exceed her budget by \$25,015.60.
- 4) The Appellant's individualized budget for service year June 2014-May 2015 was \$34,275.55.

APPLICABLE POLICY

West Virginia Medicaid Provider Manual §§513.9.1.8.1 and 513.9.8.2 states that the amount of Person Centered Support services 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 Appellant's witnesses contended the Appellant's needs are the same as last year, therefore she requires the same level of care. The Appellant no longer has agency staff to assist her with her job or to take her on outings, which has caused her to become depressed. The Appellant's

mother now is only paid for 4.25 hours a day for the care provides, although she provides care 8 hours a day. Additionally, the Appellant is unable to give herself insulin injections (A-5) or monitor her blood sugar levels, and requires assistance in this area. The Appellant has no other family support to assist her mother with her care.

The Department contended that the Appellant's budget increased from the previous service year, and PCS-F units could be decreased to allow for PCS-A units. However, units in excess of the individualized budget can no longer be approved.

CONCLUSIONS OF LAW

The services under the I/DD Waiver program are limited to the individualized budget that is determined yearly by a member's functional assessment. The approval of the total amount of Person Centered Support-Family and Person Centered Support-Agency units for the Appellant would cause her to exceed her allocated budget amount, therefore only a portion of the services 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-Agency and Person Centered Support-Family services under the I/DD Waiver program.

ENTERED this 11th day of September 2015

Kristi Logan
State Hearing Officer