



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

October 20, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2534

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-2534**

**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 October 8, 2015, on an appeal filed July 10, 2015.

The matter before the Hearing Officer arises from the July 1, 2015, decision by the Respondent to deny the requested units of Person Centered Support-Agency services under the I/DD Waiver program.

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 *pro se*. Appearing as witnesses for the Appellant were ██████████, the Appellant'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 July 1, 2015
- D-2 West Virginia Medicaid Provider Manual §513.9.1.8.1
- D-3 Service Authorization 2<sup>nd</sup> Level Negotiation Request dated June 23, 2015
- D-4 APS CareConnection Purchase Request Details for Service Year July 2015-June 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) A 2<sup>nd</sup> Level Negotiation request (D-3) for 11,680 units of Person Centered Support-Agency (PCS-A) services under the I/DD Waiver program was submitted on behalf of the Appellant on June 23, 2015.
- 2) The Department issued a Notice of Denial (D-1) on July 1, 2015, advising that of the 11,680 units of PCS-A that were requested, only 6,864 units were approved.
- 3) The Appellant's individualized budget for service year July 2015-June 2016 is \$43,445.72. The approval of the total amount of requested PCS-A units would cause the Appellant to exceed his budget by \$23,667.52.

## **APPLICABLE POLICY**

West Virginia Medicaid Provider Manual §513.9.1.8.1 states that the amount of Person Centered Support-Agency 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**

Witnesses for the Appellant contended that the Appellant's mother, his primary caregiver, has experienced a decline in her health and has difficulty caring for the Appellant with the reduced PCS-A hours. The Appellant's hours for Therapeutic Consultant and Service Coordination have already been reduced to accommodate the Waiver program's budgetary constraints and allow for more PCS-A hours.

The Department contended that the PCS-A units that were requested for the Appellant were under the Traditional Option, which is more expensive than under Personal Options. If the Appellant were to change to Personal Options, he could receive additional PCS-A services. The Department noted that the Appellant lives in a natural setting, in which natural support is expected by those living in the home in addition to the care already provided by the Appellant's mother.

## **CONCLUSION OF LAW**

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

**ENTERED this 20<sup>th</sup> day of October 2015**

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**Kristi Logan  
State Hearing Officer**