



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

September 24, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-2535

Dear Mr. [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-2535**

**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 22, 2015, on an appeal filed July 10, 2015.

The matter before the Hearing Officer arises from the July 8, 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 ██████████, Registration Coordinator, APS Healthcare. Appearing as a witness for the Department was Tania Hardy, I/DD Program Manager, Bureau for Medical Services (BMS). The Appellant was represented by ██████████, Appellant's father, and ██████████, Appellant's sister. Appearing as witnesses for the Appellant were ██████████, Program Director, ██████████ ██████████, Service Coordinator, ██████████ ██████████, Behavior Support Professional, ██████████ ██████████, RN, ██████████ and ██████████, RN, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Denial dated July 8, 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 APS Healthcare 2<sup>nd</sup> Level Negotiation Request dated April 28, 2015
- D-4 APS CareConnection for Title XIX I/DD Waiver Purchase Request Details for the budget year of May 1, 2015 through April 30, 2016

**Appellant's Exhibits:**

- A-1 Documentation from [REDACTED] including Monthly Behavior Summaries and Charting Forms

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 July 8, 2015, the Appellant was notified (D-1) that his request for 34,260 units of Person-Centered Support (PCS)-Agency 1:1 services under the I/DD Waiver Medicaid Program was denied. The notice indicates that the Appellant was instead approved for 15,142 units of the requested PCS-Agency 1:1 units. The notice also states that the Appellant requested 1,452 units of PCS-Agency 1:2 units, but was approved for 18,698 units.
- 2) [REDACTED], Registration Coordinator with APS Healthcare, represented the Department and testified that the Appellant's annual I/DD Waiver Program budget for the budget year of May 1, 2015 through April 30, 2016 is \$167,942.34 (see Exhibit D-4). Mr. [REDACTED] testified that if the Appellant had been awarded the total PCS-Agency units he requested, his annual budget would have been exceeded by \$52,491.58.
- 3) The Appellant's representatives voiced concern about safety issues if the Appellant does not receive the number of PCS-Agency 1:1 staffing units that were requested. [REDACTED], Registered Nurse with [REDACTED] testified that the Appellant thrives on structure and routine, and has previously targeted other roommates. She indicated that he does not target his current roommate. [REDACTED], Program Director with [REDACTED] testified that she would feel uncomfortable with the Appellant having less than 1:1 staffing for more than one to two hours at a time due to safety issues stemming from his unpredictable behaviors. Taniua Hardy, I/DD Program Manager, testified that the Appellant's current living situation should function as a two-person living situation with roommate compatibility, and the expectation is that both 1:1 and 1:2 staffing should be utilized.

**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.

### **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 representatives for the Appellant indicated that the Appellant exhibits challenging behaviors, the Department's representatives testified that if all requested services had been approved, the Appellant's annual budget would have been exceeded by more than \$52,000. Therefore, the Department acted correctly in denying services in excess of the Appellant's annual budget.

### **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 his individualized budget.

**ENTERED this 24th Day of September 2015.**

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**Pamela L. Hinzman**  
**State Hearing Officer**