



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

October 16, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-2631

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-2631

**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 6, 2015, on an appeal filed July 23, 2015.

The matter before the Hearing Officer arises from the July 19, 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 Taniua Hardy, I/DD Program Manager, Bureau for Medical Services (BMS). The Appellant was represented by his mother, ██████████, and ██████████, Service Coordinator, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Denial dated July 19, 2015
- D-2 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.15
- D-3 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.8.1
- D-4 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.8.2

- D-5 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.10.1
- D-6 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.11
- D-7 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.16.1
- D-8 APS Healthcare 2nd Level Negotiation Request dated June 11, 2015
- D-9 APS CareConnection for Title XIX I/DD Waiver Purchase Request Details for the budget year of July 1, 2015 to June 30, 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 July 19, 2015, the Appellant was notified (D-1) that his requests for the following services under the I/DD Waiver Medicaid Program were denied: 130 Therapeutic Consultant units (approved for 115 units); 4,992 Person-Centered Supports (PCS)- Agency 1:1 units (approved for 4,583 units); 8,736 Person-Centered Supports (PCS)- Family 1:1 units (approved for 6,705 units); 6,032 Respite- Agency 1:1 units (approved for 4,160 units); 212 Service Coordination Units (approved for 200 units); and 6,600 Transportation-Miles units (approved for 4,001 units).
- 2) ██████████, 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 July 1, 2015 through June 30, 2016 is \$67,590.38 (see Exhibit D-9). Mr. ██████████ testified that if the Appellant had been awarded the total service units he requested, his annual budget would have been exceeded by \$18,772.72.
- 3) The Appellant’s mother, ██████████, testified that the Appellant is 42 years old, functions at a 3-to-4-year-old level, weighs 230 pounds, suffers from seizures, does not speak, and requires assistance with all functions of daily living. She indicated that she has difficulty attending to the Appellant’s needs. The Department’s representatives informed Ms. ██████████ that service units can be moved between categories to best meet the Appellant’s individual needs.

APPLICABLE POLICY

I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapters 513.9.1.15 (D-2), 513.9.1.8.1 (D-3), 513.9.1.8.2 (D-4),

513.9.1.10.1 (D-5), 513.9.1.11 (D-6) and 513.9.1.16.1 (D-7) address I/DD Waiver service units for the following: Therapeutic Consultant: Traditional Option, Person-Centered Support: Agency; Traditional Option, Person-Centered Support: Family; Traditional Option, Respite: Agency; Traditional Option, Service Coordination: Traditional Option, and Transportation: Miles: Traditional Option. Each section indicates that the amount of service is limited by the member's individualized budget.

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 his care is challenging, the Department's representatives testified that if all requested services had been approved, the Appellant's annual budget would have been exceeded by \$18,772. 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 16th Day of September 2015.

Pamela L. Hinzman
State Hearing Officer