



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

April 16, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 14-BOR-3858

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

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

██████████,

Claimant,

v.

Action Number: 14-BOR-3858

**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 April 9, 2015, on an appeal filed December 11, 2014.

The matter before the Hearing Officer arises from the December 5, 2014 decision by the Respondent to deny Claimant's request for Medicaid I/DD Waiver Program services that exceed the individualized budget.

At the hearing, the Respondent appeared by ██████████, APS Healthcare. Appearing as witnesses for the Department were ██████████, APS Healthcare; ██████████, APS Healthcare; and Tania Hardy, I/DD Program Manager, Bureau for Medical Services (BMS). The Claimant was present, but was represented by his mother, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapters 513.9.1.8.1 and 513.9.1.8.2
- D-2 APS Healthcare 2nd Level Negotiation Request dated November 25, 2014
- D-3 Inventory for Client and Agency Planning (ICAP) – evaluation date September 5, 2014
- D-4 Inventory for Client and Agency Planning (ICAP) – evaluation date September 12, 2013
- D-5 Service Item Status History
- D-6 Notice of Denial dated December 5, 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) On December 5, 2014 the Claimant was notified (D-6) that his request for 8,344 units of Person-Centered Support (PCS)-Agency under the I/DD Waiver Medicaid Program was denied. The notice indicates that the Claimant was approved for 5,512 units of the 8,344 units requested.
- 2) ██████████ of APS Healthcare represented the Department and testified that there were no documented clinical changes to the Claimant's condition from the previous budget year, and the Claimant received a service score of 35 based on his Inventory for Client and Agency Planning (ICAP) (see Exhibits D-3 and D-4). Ms. ██████████ contended that if the Claimant had been authorized to receive the number of PCS-Agency hours he requested, his annual service budget would have been exceeded by more than \$14,000.

Evidence proffered by the Respondent reveals that the I/DD Waiver Program exceeded its total budget by more than \$50 million in the previous year, and because the Respondent has been directed to operate within budgetary guidelines, individualized program budgets can no longer be exceeded.

- 3) ██████████, the Claimant's mother, testified that she understands the budgetary constraints, but cannot get anyone to provide PCS-Agency services for the Claimant due to the budget cuts. Ms. ██████████ indicated that there are no care providers who are willing to make the trip to her rural residence for only 25 hours per week. She indicated that the Claimant has not been utilizing all of his transportation units, and Ms. ██████████ explained that those units could potentially be transferred to PCS-Agency units if the Claimant made such a request.

APPLICABLE POLICY

I/DD Waiver Manual Chapter 513.9.1.8.1 states that 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 on the ICAP. Policy provides that an individual's annual budget can be adjusted (increased or decreased), however, budget modifications can only occur if there is a change in the individual's assessed needs. While the Respondent acknowledged that the Claimant exceeded his individualized budget during the previous year, regulations that govern the I/DD Waiver Program stipulate that services cannot exceed the individualized budget of the recipient.

CONCLUSIONS OF LAW

Evidence submitted at the hearing affirms the Department's decision to deny the Claimant'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 Claimant's request for services in excess of the Claimant's individualized budget.

ENTERED this _____ Day of April 2015.

Pamela L. Hinzman
State Hearing Officer