



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

May 25, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1703

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: Taniua Hardy, Bureau for Medical Services

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1703

**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 May 24, 2016, on an appeal filed April 15, 2016.

The matter before the Hearing Officer arises from the April 6, 2016 decision by the Respondent to deny the requested units of Person Centered Support-Family under the I/DD Waiver program.

At the hearing, the Respondent appeared by ██████████, ██████████. 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 grandmother, ██████████, the Appellant's grandfather, ██████████, the Appellant's mother, ██████████, Service Coordinator with ██████████ and ██████████, the Appellant's homebound teacher. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Denial dated April 6, 2016
- D-2 Bureau for Medical Services Provider Manual §513.17.1.2
- D-3 Service Authorization 2nd Level Negotiation Request dated January 11, 2016
- D-4 APS CareConnection Purchase Request Details Screen Print

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 request (D-3) for 11,712 units of Person Centered Support-Family (PCS-F) under the I/DD Waiver Program was submitted for the Appellant on January 11, 2016.
- 2) The Department issued a Notice of Denial (D-1) on April 6, 2016, advising the Appellant that of the 11,712 units of PCS-F that were requested, only 7,320 could be approved.
- 3) The Appellant is under the age of 18 and resides with his grandmother in a natural setting. He receives I/DD Waiver services under the Personal Options model.
- 4) The Appellant's individualized budget (D-4) for service year December 2015-December 2016 is \$98,352.36. The Appellant has \$59,240.04 remaining in his budget to purchase additional services.
- 5) The Appellant's representative and witnesses contended that the 7,320 units of PCS-F are insufficient to meet his needs.

APPLICABLE POLICY

Bureau for Medical Services Provider Manual §513.17.1.2 states that the maximum annual units for Family PCS: Personal Options services are limited to the equivalent monetary value of 7,320 units/1,830 hours (based upon average of five hours per day) of Traditional Family PCS per Individualized Program Planning (IPP) year for persons under age 18 when transferring funds from the annual budget allocation to the Participant-Directed budget.

DISCUSSION

Policy limits the amount of Person Centered Support-Family services to 7,320 units per service year for individuals under age 18 receiving these services under the Personal Options model.

Witnesses for the Appellant argued that this policy discriminatory and does not meet the needs of the Appellant. The Appellant had been receiving 11,712 units of PCS-F, until a recent change in policy. The Appellant's representative argued that there has been no decrease in the Appellant's assessed needs and the reduction of PCS-F services has diminished his quality of life.

The Department explained that upon the renewal of the I/DD Waiver Program with the federal government, adjustments were made the maximum allowable units of many services, not just PCS-F. The Appellant has over half of his remaining budget to purchase additional services to meet his individual needs.

CONCLUSIONS OF LAW

Whereas the Appellant was approved for the maximum amount of Person Centered Support-Family services allowed by policy, the request for additional units cannot be approved.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's denial of additional units of Person Centered Support-Family under the I/DD Waiver Program.

ENTERED this 25th day of May 2016

**Kristi Logan
State Hearing Officer**