



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

January 13, 2016

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-3343

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-3343**

**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 January 7, 2016, on an appeal filed September 4, 2015.

The matter before the Hearing Officer arises from the October 19, 2015 decision by the Respondent to deny the Appellant's request for services under the I/DD Waiver Medicaid Program.

At the hearing, the Respondent appeared by ██████████, Registration Coordinator, APS Healthcare. Appearing as a witness for the Respondent was Tania Hardy, Program Manager, Bureau for Medical Services. The Appellant was represented by her mother, ██████████. Appearing as witnesses for the Appellant were ██████████, Person-Centered Support and Respite Provider, ██████████, and ██████████, Service Coordinator, ██████████.

All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Denial dated October 19, 2015
- D-2 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.8.2
- D-3 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.10.1
- D-4 I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.16.2

- D-5 Service Authorization 2<sup>nd</sup> Level Negotiation Request dated July 24, 2015, and Service Authorization 2<sup>nd</sup> Level Negotiation Request dated September 24, 2015
- D-6 APS CareConnection Purchase Request Details

**Appellant's Exhibits:**

- A-1 Individualized Program Plan (effective date August 1, 2015)
- A-2 Appellant's daily schedule
- A-3 Letter from [REDACTED], PA-C (undated)
- A-4 Letter from [REDACTED], D.O. (undated)
- A-5 Psychological Evaluation (Update) dated June 2, 2011
- A-6 APS CareConnection Consumer Snapshot
- A-7 WV I/DD Waiver Unit/Cost Worksheet
- A-8 APS CareConnection Consumer Snapshot
- A-9 Appellant's Behavior Protocol
- A-10 APS CareConnection Consumer Snapshot, WV I/DD Waiver Unit/Cost Worksheet, and Utilization Report

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 October 19, 2015, the Appellant was notified (D-1) that her request for services under the I/DD Waiver Medicaid Program was denied. The notice indicates that the Appellant requested 8,760 units of Person-Centered Support- Family 1:1 units and was approved for 0 units; 6,718 units of Respite and was approved for 3,510 units; and 9,600 units of Transportation-Miles and was approved for 9,514 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 August 1, 2015 through July 31, 2016 is \$69,886.47 (see Exhibit D-6). Mr. [REDACTED] testified that if the Appellant had been awarded the total units she requested, her annual budget would have been exceeded by \$40,123.79.
- 3) The Appellant's witnesses testified that the Appellant cannot be left alone, as she does not watch television or entertain herself, and requires constant interaction. They indicated that the Appellant is prone to self-harm and her behavior has deteriorated since her respite hours were cut. The Appellant resides with her disabled parents, is at home 24 hours per day, and is reportedly at risk for falls.

## **APPLICABLE POLICY**

I/DD Waiver Manual, Chapter 513 – *Covered Services, Limitations, and Exclusions for I/DD Waiver Services*, Chapter 513.9.1.8.2, Person-Centered Support: Family: Traditional Option (D-2):

Person-Centered Support (PCS): Family is provided by awake and alert staff and consists of individually-tailored training and/or support activities 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.

All units of service must be prior authorized before being provided. Prior authorizations are based on assessed need and services must be within the member's individualized budget.

The amount of service is limited by the member's individualized budget. The annual budget allocation may be adjusted (increased or decreased) only if changes have occurred regarding the member's assessed needs.

I/DD Waiver Manual Chapter 513.9.1.10.1 (D-3) states that the amount of Respite services 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.

I/DD Waiver Manual Chapter 513.9.1.16.1 (D-4) states that the amount of Transportation Miles must be prior authorized based on the member's assessed needs. The amount of services 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 that the Appellant exhibits behavioral and safety issues, 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 \$40,000. 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 services under the I/DD Waiver Medicaid Program.

**DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny the Appellant's services under the I/DD Waiver Medicaid Program.

**ENTERED this 13th Day of January 2016.**

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**Pamela L. Hinzman  
State Hearing Officer**