



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 2590  
Fairmont, WV 26555-2590

Joe Manchin III  
Governor

February 16, 2005

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 12, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Homemaker service hours under the Medicaid Title XIX (Home & Community-Based) Waiver Program.

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.

One of these regulations specifies that for the Aged and Disabled Waiver Program, the number of Homemaker service hours is determined based on your Level of Care (LOC). The "Level of Care" is determined by evaluating the Pre-Admission Screening Form (PAS) and assigning points to documented medical conditions that require nursing services. Program services are limited to a maximum number of units/hours which is reviewed and approved by WVMI. (Aged/Disabled Home and Community-Based Services Waiver Policy and Procedures Manual 520 & 570.1)

The information which was submitted at the hearing revealed that while you continue to require the degree of care and services necessary to qualify medically for the Aged & Disabled Waiver Program, your documented medical conditions confirm that your Level of Care should be reduced from a Level "C" to a Level "B" Level of Care rating. As a result, you are eligible to receive three (3) hours per day /93 hours per month of Homemaker services.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to reduce your Homemaker service hours under the Medicaid Title XIX (HCB) Waiver Program.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Pc: Chairman, Board of Review  
WVMI  
BoSS  
[REDACTED] CWVAS

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on February 16, 2005 for \_\_\_\_\_. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing convened on January 12, 2005 on a timely appeal filed August 20, 2004.

It should be noted that benefits and services under the Medicaid Title XIX Waiver (HCB) Program have continued at the previous level.

All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE:**

The Program entitled **Medicaid Title XIX Waiver (HCB)** is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

Under Section 2176 of the Omnibus Budget Reconciliation Act of 1981, states were allowed to request a waiver from the Health Care Financing Administration (HCFA) so that they could use Medicaid (Title XIX) funds for home and community-based services. The program's target population is individuals who would otherwise be placed in an intermediate or skilled nursing facility (if not for the waiver services).

Services offered under the Waiver Program will include: (1) chore, (2) homemaker and (3) case management services.

West Virginia has been offering the Waiver Services Program since July, 1982 to those financially eligible individuals who have been determined to need ICF level care but who have chosen the Waiver Program Services as opposed to being institutionalized.

**II PARTICIPANTS:**

\_\_\_\_\_, Claimant

\_\_\_\_\_, Claimant's son

\_\_\_\_\_, Claimant's daughter

\_\_\_\_\_, RN, CWVAS

Stacy Holstein, RN, WVMI (by phone from WVMI)

Kay Ikerd, RN, BoSS, (by phone BoSS)

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

**IV QUESTION TO BE DECIDED:**

The question to be decided is whether the agency is correct in their proposal to reduce the Claimant's Homemaker service hours under the Medicaid Title XIX Waiver (HCB) Program.

**V. APPLICABLE POLICY:**

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

Department's exhibits

D-1 Aged/Disabled Home and Community-Based Services Waiver Policy Manual 570 & 580.

D-2 Pre-Admission Screening form, PAS -2000 dated 8/2/04.

D-3 Notice of Decision - August 4, 2004

Claimant's exhibits

C-1 Plan of Care/Homemaker Worksheet

**VII. FINDINGS OF FACT CONCLUSIONS OF LAW:**

(1) The Claimant's Aged & Disabled Waiver case was undergoing an annual medical reevaluation to verify continued medical eligibility and to determine the appropriate Level of Care, hereinafter LOC. It should be noted that the Claimant was receiving Homemaker Services at a level "C" LOC at the time of the evaluation.

(2) On August 4, 2004, a Notice of Decision was sent to the Claimant and states, in pertinent part:

The West Virginia Medical Institute (WVMI) is the Quality Improvement Organization (QIO) authorized by the Bureau for Medical Services of the West Virginia Department of Health and Human Resources to determine medical necessity for the Aged and Disabled Waiver Program. You have been determined medically eligible to continue to receive in-home services under the Aged and Disabled Waiver Program. The number of homemaker service hours approved is based on your medical needs, and cannot exceed 93 hours per month.

(3) Stacy Holstein reviewed the Pre-Admission Screening (PAS-2000), exhibit D-2, and testified that the Claimant was awarded 15 points for documented medical conditions that require nursing services. She testified that this finding is consistent with a level of care "B," making the Claimant eligible for 3 hours per day or 93 hours per month of homemaker services.

(4) Evidence received at the hearing indicates that the claimant cannot transfer in or out of the tub/shower without physical assistance. This is confirmed in the nurse's comments found on page 5 of 5 of the PAS -2000 – "States that she need assist with getting into tub." Transferring reflect a level-3 (physical assistance) and an additional point (+1) is awarded to the LOC determination.

(5) Representatives speaking on behalf of the Claimant contested the findings in medication administration #28 (prompting and supervision) and dressing #26.c. (physical assistance) in the assessment, however, the evidence does not support the assignment of additional points in these areas. Medication administration would not warrant the assignment of another point even if the Claimant was unable to administer medication and the documentation clearly indicates that the Claimant does assist with dressing.

(6) The Aged/Disabled Home and Community Based Services Manual 580.2 & 580.2,b - provides that a medical eligibility reevaluation may include either a periodic or annual reevaluation. The purpose of the either of these reevaluations is to confirm and validate an individual's continued medical eligibility for ADW services and to establish whether there is any change in the LOC the individual requires. All clients must be evaluated at least annually.

(7) Aged/Disabled Home and Community-Based Services Waiver Policy Manual 570.1 and 570.1.d:  
There will be four levels of care for clients of ADW Homemaker services. Points will be determined based on the following sections of the PAS:

- #23 - 1 Point for each (can have total of 12 points)
- #24 - 1 Point
- #25 - 1 Point for B, C or D
- #26- Level I - 0 points  
Level II - 1 point for each item A through I  
Level III - 2 points for each item A through M; I (walking) must be equal to or greater than Level III before points given for J (wheeling)  
Level IV - 1 point for A, 1 point for E, 1 point for F, 2 points for G through M
- #27 - 1 point for continuous oxygen
- #28 - 1 point for Level B or C
- #34 - 1 point if Alzheimers or other dementia
- #35 - 1 point if terminal

**Total number of points allowable is 44.**

#### **LEVELS OF CARE SERVICE LIMITS**

Level A - 5 points to 9 points	-2 hours per day or 62 hours per month
Level B - 10 points to 17 points	-3 hours per day or 93 hours per month
Level C - 18 points to 25 points	-4 hours per day or 124 hours per month
Level D - 26 points to 44 points	-5 hours per day or 155 hours per month

#### **VIII. DECISION:**

Policy provides that Individuals who medically qualify for the Aged and Disabled Waiver Services Program are evaluated and assigned a Level of Care. The Level of Care, A through D, provides the number of Homemaker services hours for which the individual is eligible. The Level of Care (LOC) is determined by reviewing the PAS-2000 and assigning points to qualifying documented medical findings as directed by policy.

The Pre-Admission Screening Form (PAS-2000) completed on August 2, 2004 by WVMI reveals that the Claimant was awarded 15 points and assigned a Level "B" LOC rating. Testimony and documentation received at the hearing supports the assignment of one (1) additional point – Transferring, for a total 16 points. This finding, however, fails to change the LOC rating proposed by the Agency. It is therefore the finding of this Hearing Officer that the Claimant was appropriately assigned a Level of Care "B" (16pts.) and that she is eligible to receive 3 hours per day or 93 hours per month of homemaker services.

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the proposal of the Agency to reduce the Claimant's Homemaker service hours to a Level "B" LOC - 3 hours per day / 93 hours monthly.

#### **IX. RIGHT OF APPEAL**

See Attachment.

**X. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.