



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**

**Joe Manchin III**  
Governor

**Martha Yeager Walker**  
Secretary

May 10, 2005

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 13, 2005. Your hearing request was based on the Department of Health and Human Resources' proposed reduction in Homemaker hours through the Aged Disabled Waiver Program, ADW.

In arriving at a decision, the State Hearings 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.

Eligibility for the ADW program is based on current policy and regulations. Some of these regulations state as follows: Each applicant/client determined to be medically eligible for ADW services receives an appropriate Level of Care that reflects current/actual medical condition.

The information which was submitted at your hearing revealed that your condition at the time of your evaluation was correctly evaluated to be at a level C.

It is the decision of the State Hearings Officer to uphold the proposed action of the Agency to reduce your homemaker hours.

Sincerely,

State Hearings Officer  
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review  
[REDACTED] Central WV Aging  
Bogges, BoSS

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

\_\_\_\_\_,

**Claimant,**

v.

**Action Number:** \_\_\_\_\_

**West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 13, 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 was convened on April 13, 2005 on a timely appeal, filed February 10, 2005.

It should be noted here that the claimant's benefits have been continued pending a hearing decision.

**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.

The purpose of the ADW program is to provide services through Section 2176 of the Omnibus Budget Reconciliation Act of 1981 which allows states 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.

**III. PARTICIPANTS:**

\_\_\_\_\_, claimant  
\_\_\_\_\_, Central WV Aging  
\_\_\_\_\_, friend of claimant  
Bobbi J. Sides, WV Medical Institute  
Kay Ikerd, Bureau of Senior Services

Presiding at the Hearing was Sharon Yoho, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question(s) to be decided is whether the claimant's medical condition warranted a reduction in homemaker hours under the Aged/Disabled Waiver (HCB) Program.

**V. APPLICABLE POLICY:**

Aged/Disabled Home and Community Based Services Manual # 570 & 580

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

**Department's Exhibits:**

- D-1 Aged/Disabled Home and Community Based Services Manual Policy # 520, 570 & 580
- D-2 Eligibility Determination dated January 18, 2005
- D-3 Pre-Admission Screening, PAS, dated January 18, 2005
- D-4 Notice of decision dated January 25, 2005

**Claimants' Exhibits:**

- C-1 None

**VII. FINDINGS OF FACT:**

- 1) The claimant's Aged/Disabled Waiver case was undergoing an annual review in January 2005. A PAS, exhibit D-3, was completed on January 18, 2005.
- 2) The review of the claimant's medical condition and her needs resulted in a decision by the WV Medical Institute and the Bureau of Senior Services that this claimant was no longer eligible for the previous 155 hours of homemaker services per month. The evaluation assessed the claimant as being at a level of care in the level C category with 23 points assigned.

- 3) Points were assigned in the following areas: 7 points for Medical Conditions and Symptoms; 1 point each for Bathing, Dressing and Grooming; 2 points for Bladder Incontinence; 1 point for Bowel Incontinence; 1 point for Orientation; 1 point for Transferring; 2 points each for Walking, Wheeling and Vision; 1 point for Vacating and 1 point for Medicating. The agency sent Ms. \_\_\_\_\_ a notice of this decision on January 25, 2005. This notice advised her that she was eligible for only 124 hours of homemaker services per month.
- 4) Ms. \_\_\_\_\_ is a 76 year old female who had just prior to this evaluation became homeless and was residing in a motel room during the completion of the PAS. She states that during the evaluation, she was able to transfer from her bed to her wheelchair without assistance but this was only possible due to the low elevation of that bed. She indicates that transferring was and still is a real problem for her and that she does need assistance.
- 5) Ms. \_\_\_\_\_ and \_\_\_\_\_ both indicate that the clients condition has worsened since the January 2005 assessment. There is some indication of a worsening condition of bowel continence as well as increased limitations due to her diabetic neuropathy condition. It was necessary to have a hospital bed moved in to the claimant's new apartment.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Aged/Disabled Home and Community Based Services Manual # 580.2.b provides that all ADW clients must be evaluated at least annually to confirm their continued medical eligibility and to establish the, LOC, level of care they require.
- 2) Aged/Disabled Home and Community Based Services Manual # 570.1.c outlines the levels of care point system which assigns a level of care to the client. In section 23 of the PAS there are 12 points possible, that being 1 point for each item. In section 24 there is one point possible. In section 25 there is a range of one to two points possible for each category depending on the severity of the need. There is one point possible in each of section 27, 28, 34 and 35.
- 3) Aged/Disable Home and Community Based Services Manual # 570.1.d outlines the number of points required for each of level A thru D and the hours of homemaker services assigned to each. Level A requires a points range of 5-9 and is assigned 62 hours of homemaker services per month. Level B requires 10-17 points and is assigned 93 hours of homemaker services per month. Level C requires 18-25 points and is assigned 124 hours of homemaker services per month. Level C requires 26-44 points and is assigned 155 hours of homemaker services per month.

#### **IX. DECISION:**

In determining the level of care that a qualified recipient of the ADW program requires, a point system is used. The independent assessment completed by WV Medical Institute at the claimant's reevaluation revealed that the claimant should be awarded 23 points based on her medical needs as of January 18, 2005. This 23 points would place the claimant in the category

of C which assigns 124 hours of homemaker services. Testimony was convincing that the claimant, at the time of the assessment, should have been assessed with two points for her transferring needs. This would increase her assigned points to 24 which would still fall within the level C category. There is strong indication that this claimant's condition has deteriorated since the January, 2005 assessment, however this decision is based on her condition at the time of the assessment in January.

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to uphold the Agency's proposed action to reduce the level of care from a level D to a level C.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 10th Day of May, 2005.**

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**State Hearing Officer**