



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street West  
Charleston, WV 25313**

**Joe Manchin III**  
Governor

**Martha Yeager Walker**  
Secretary

July 25, 2005

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 7, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to discontinue your Aged and Disabled Waiver Services case for lack of services in over 100 days.

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 Aged and Disabled Waiver Services Program is based on current policy and regulations. Some of these regulations state as follows: The Case Management Agency (CMA) or Home Maker Agency (HMA) immediately notifies BoSS (Bureau of Senior Services) when a client has not received services for 100 continuous days. BoSS sends notification of discontinuation of services to client. BoSS ensures that CMA, HMA, and DHHR are notified as appropriate. (Aged/Disabled Home and Community Based Services Manual §590.3 *DISCONTINUATION OF SERVICES*).

The information submitted at your hearing revealed: The last date you received Homemaker Services was October 11, 2004.

It is the decision of the State Hearings Officer to UPHOLD the PROPOSAL of the Department to discontinue your case.

Sincerely,

Ray B. Woods, Jr., M.L.S.  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Kay Ikerd, RN – 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 July 25, 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 June 7, 2005 on a timely appeal filed April 4, 2005.

It should be noted here that the claimant's benefits have been continued pending a hearing decision. A pre-hearing conference was not held between the parties and, Ms. \_\_\_\_\_ did not have legal representation.

**II. PROGRAM PURPOSE:**

The Program entitled Aged and Disabled Waiver Services 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.

**III. PARTICIPANTS:**

\_\_\_\_\_, Daughter/Power of Attorney\*

\_\_\_\_\_, Granddaughter/Homemaker\*

Kay Ikerd, RN – Bureau of Senior Services

\*Requested to participate by teleconference call

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question(s) to be decided is: Did Ms. \_\_\_\_\_ receive Aged and Disabled Waiver Services in over 100 days?

**V. APPLICABLE POLICY:**

Aged/Disabled Home and Community Based Services Manual §590.3 *DISCONTINUATION OF SERVICES*.

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

**Department's Exhibits:**

D-1 Aged/Disabled Home and Community Based Services Manual § 590.3  
*DISCONTINUATION OF SERVICES* Policy.

D-2 Discontinuation of Services Letter dated 03/02/05

D-3 Memorandum with Exhibits dated 04/01/05

D-4 Scheduling Notice dated 04/11/05

D-5 Request for Hearing dated 03/05/05

D-6 GroupWise Message dated 06/10/05, confirming last date of homemaker services

**Claimants' Exhibits:**

C-1 None

**VII. FINDINGS OF FACT:**

1) Aged/Disabled Home and Community Based Services Manual §590.3  
*DISCONTINUATION OF SERVICES*.

**REASON:**

No Services Have Been  
Provided for 100  
continuous days; for  
example, extended

**EFFECTIVE DATE**

13 days after the date of  
the notification letter, if  
client does not request  
hearing.

**PROCEDURE**

CMA or HMA immediately  
notifies BoSS when a client has  
not received services for 100  
continuous days. Boss sends

placement in long-term care or rehabilitation facility.

notification of discontinuation of services to client. BoSS ensures that CMA, HMA, and DHHR are notified as appropriate.

2) On February 21, 2005, the Bureau of Senior Services received a fax from [REDACTED] Case Manager for Central West Virginia Aging Services, Inc. It stated in part that, "Ms. \_\_\_\_\_ had not received services in over 100 days. She did not receive services because Ms. \_\_\_\_\_ refused homemaker services.

3) On March 2, 2005, the Bureau of Senior Services issued a letter to Ms. \_\_\_\_\_ stating in part, "The services you have received under the Medicaid Aged and Disabled Waiver program are discontinued because **no services have been provided for 100 days.**"

4) Ms. \_\_\_\_\_ completed a Request for Hearing on March 5, 2005.

5) Ms. \_\_\_\_\_ resides with her daughter, Mrs. \_\_\_\_\_. Mrs. \_\_\_\_\_ did not want homemakers in the home because, items had been stolen from her home. Mrs. \_\_\_\_\_ started providing Homemaker Services for her grandmother in February 2005, through Special Touch Nursing.

6) There was a question regarding the last date of homemaker services for Ms. \_\_\_\_\_. The State Hearing Officer requested confirmation and received a fax from Ms. Ikerd on June 11, 2005. A confirmation of homemaker services was received from Ms. [REDACTED] Case Manager for Central West Virginia Aging Services, Inc. on June 9, 2005. It stated in part, "Per your request, I have confirmed with Homemaker RN [REDACTED] the last day of homemaker services prior to hearing status was October 11, 2004."

7) Mrs. \_\_\_\_\_ testified that she did not receive a copy of the Hearing Exhibits. The State Hearing Officer requested Ms. Ikerd to send another set of the Exhibits and, gave Mrs. \_\_\_\_\_ an opportunity to submit written comments after receiving the Exhibits.

8) The State Hearing Officer did not receive any written comments from Mrs. \_\_\_\_\_.

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

1) Ms. \_\_\_\_\_ did not receive homemaker services for 100 days.

### **IX. DECISION:**

It is the decision of this State Hearing Officer to UPHOLD the Department's Proposal to discontinue services under the Aged and Disabled Waiver Services Program.

### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 25th Day of July, 2005.**

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**Ray B. Woods, Jr., M.L.S.  
State Hearing Officer**