



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Office of Inspector General

Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Joe Manchin III  
Governor

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

January 27, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 20, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your homemaker hours to Level D care to Level C.

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/Disabled Waiver program is based on current policy and regulations. These regulations provide that the number of homemaker service hours is determined based on the 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 Waiver Policy and Procedures Manual § 501.3).

The information submitted at your hearing revealed that you no longer require services at a Level D care.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to reduce your homemaker hours from Level D care to Level C.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Bureau of Senior Services  
West Virginia Medical Institute  
[REDACTED]

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

-----,

**Claimant,**

v.

**Action Number: 09-BOR-2080**

**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 January 20, 2010 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 January 20, 2010 on a timely appeal, filed October 19, 2009.

It should be noted here that the claimant's benefits under the Aged/Disabled Waiver program have continued pending a decision.

**II. PROGRAM PURPOSE:**

The Program entitled Aged/Disabled Waiver (ADW) is administered by the West Virginia Department of Health & Human Resources.

The ADW Program is defined as a long-term care alternative that provides services that enable an individual to remain at or return home rather than receiving nursing facility (NF) care. Specifically, ADW services include Homemaker, Case Management, Consumer-Directed Case Management, Medical Adult Day Care, Transportation, and RN Assessment and Review.

**III. PARTICIPANTS:**

-----, Claimant

-----, Case Manager, [REDACTED]

-----, Homemaker, [REDACTED]

Kay Ikerd, RN, Bureau of Senior Services

Stephanie Schiefer, RN, West Virginia Medical Institute

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

All participants testified by phone.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department's proposal to reduce Claimant's homemaker hours is correct.

**V. APPLICABLE POLICY:**

Aged/Disabled Home and Community Based Waiver Policy Manual § 501.3.2

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

**Department's Exhibits:**

- D-1 Aged/Disabled Home and Community Based Waiver Policy Manual § 501.3.2
- D-2 Pre-Admission Screening Form dated August 10, 2009
- D-3 Notice of Decision dated August 18, 2009

**Claimants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) Claimant was reevaluated for the ADW program on August 10, 2009. A Pre-Admission Screening Form (PAS) was completed that date by Stephanie Shiefer, RN of the West Virginia Medical Institute (WVMI) (D-2).

Claimant received a total of 20 points on the PAS and her homemaker hours were reduced to 124 hours a month, or Level C care (D-2 and D-3).

- 2) -----, Claimant's case manager, stated they were contesting Claimant not receiving a point in the areas of angina, dysphagia, and orientation. Also, -----felt Claimant should have been rated a Level 3 in bathing and grooming.

-----stated Claimant has angina at rest and at exertion and she has always had problems swallowing. Claimant has occasional disorientation.

- 3) -----, Claimant's homemaker, testified to the care she gives Claimant. -----stated she has provided total care with bathing and grooming since she started working for Claimant in June 2009. -----testified that Claimant is unable to use her left arm and is unable to participate in any bathing and grooming. She has not been able to walk since July 2009.

- 4) Stephanie Shiefer, RN with WVMI, testified to the PAS she completed for Claimant in August 2009. Ms. Shiefer stated she was advised that Claimant was able to wash her face and upper body. Claimant demonstrated combing her own hair during the assessment and reported to Ms. Shiefer that she was able to cut her own fingernails. Since Claimant was able to participate in her grooming and bathing, Ms. Shiefer rated Claimant as a Level 2, supervision/assistance, in those areas.

Ms. Shiefer stated Claimant denied having any disorientation and none was observed during the interview. Ms. Shiefer stated she reviewed the areas of eating, bathing, dressing and grooming with those present at the assessment and received no contradictory information.

- 5) Claimant gave testimony regarding her orientation saying it was worsening and she often forgot what she was talking about in conversations.
- 6) Aged/Disabled Home and Community Based Waiver Policy Manual § 501.3.2.1 and 501.3.2.2 states:

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- Medical Conditions/Symptoms- 1 point for each (can have total of 12 points)
- #24- Decubitis- 1 point
- #25- 1 point for b., c., or d.
- #26- Functional abilities
  - Level 1- 0 points
  - Level 2- 1 point for each item a. through i.
  - Level 3- 2 points for each item a. through m.; i. (walking) must be equal to or greater than Level 3 before points are given for j. (wheeling)
  - Level 4 - 1 point for a., 1 point for e., 1 point for f., 2 points for g. through m.
- #27- Professional and Technical Care Needs- 1 point for continuous oxygen
- #28 Medication Administration- 1 point for b. or c.
- #34- Dementia- 1 point if Alzheimer's or other dementia
- #34- Prognosis- 1 point if terminal

The 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. CONCLUSIONS OF LAW:**

- 1) Policy dictates that an individual's Level of Care for the Aged/Disabled Waiver Program is determined by the number of points obtained on the PAS assessment tool. The Claimant was awarded 20 points as the result of a PAS completed by WVMi in August 2009.
- 2) The information reported at the time of Claimant's evaluation indicated Claimant was able to participate somewhat in her bathing and grooming. Claimant also denied any disorientation. These statements made by the Claimant were not contested at the time of the assessment.
- 3) Despite the testimony given, Claimant was not given a diagnosis of angina or dysphagia nor was she prescribed any medication for these conditions. Additional points cannot be awarded in these areas.
- 4) The assessing nurse correctly evaluated Claimant for Level C care based on the information provided at the time of the evaluation in August 2009.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce Claimant's homemaker hours to Level C care.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 27<sup>th</sup> day of January 2010.**

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**Kristi Logan  
State Hearing Officer**