



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

Rocco S. Fucillo
Cabinet Secretary

August 31, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your mother's hearing held August 30, 2012. Your mother's hearing request was based on the Department of Health and Human Resources' proposal to reduce her homemaker service hours under the Aged/Disabled (HCB) Title XIX Waiver Services 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.

Eligibility for the Aged/Disabled Waiver Program is based on current policy and regulations. One of these regulations specifies that for the Aged/Disabled Waiver Program, 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 Services Waiver Policy and Procedures Manual 501.5.1.1)

Information submitted at the hearing reveals that your mother continues to require the degree of care and services necessary to qualify medically for the Aged/Disabled Waiver Program, and her documented medical conditions confirm that her Level of Care should be a Level "B" rating. As a result, she is eligible to receive up to 93 hours per month of homemaker services.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to decrease your mother's Level of Care under the Aged/Disabled Waiver Program.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
BoSS
WVMI
ResCare Home Care

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1572

**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 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 telephonically on August 30, 2012, on a timely appeal submitted to the Department on June 7, 2012.

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

II. PROGRAM PURPOSE:

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's daughter/guardian

-----, Case Manager, ResCare Home Care

Cecilia Brown, Quality Assurance Program Manager, Bureau of Senior Services

Kathy Gue, RN, West Virginia Medical Institute

Presiding at the hearing was Pamela L. Hinzman, 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 was correct in its proposal to reduce the Claimant's homemaker service hours under the Aged/Disabled Waiver (HCB) Program.

V. APPLICABLE POLICY:

Aged/Disabled Home and Community-Based Services Manual Section 501.5.1.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Aged/Disabled Home and Community-Based Services Manual Sections 501.5.1.1(a) and 501.5.1.1(b)
- D-2 Pre-Admission Screening (PAS) assessment completed on May 17, 2012
- D-3 Notice of Decision dated May 21, 2012
- D-4 Letter from -----, D.O., dated June 1, 2012
- D-5 Pre-Admission Screening (PAS) assessment completed on April 11, 2011

VII. FINDINGS OF FACT:

- 1) The Claimant, a recipient of Aged/Disabled Waiver (ADW) Medicaid benefits, underwent an annual reevaluation to verify continued medical eligibility and assign an appropriate Level of Care.
- 2) West Virginia Medical Institute (WVMI) Registered Nurse Kathy Gue completed a Pre-Admission Screening (PAS) medical assessment (D-2) on May 17, 2012, and determined that the Claimant continues to meet the medical eligibility criteria. The Claimant was assigned 15 points for documented medical conditions that require nursing services and meets the criteria necessary to qualify as a Level of Care "B" - eligible for 63-93 hours per month of homemaker services. It should be noted that the Claimant previously qualified for a Level of Care "C" - eligible for 94-124 hours per month of homemaker services - as a result of a PAS completed on April 11, 2011 (D-5).
- 3) The Department sent the Claimant notification on May 21, 2012 (D-3), advising her of the proposed reduction in homemaker service hours.
- 4) The Claimant's daughter/guardian, -----, - who was present during the PAS assessment - testified that her mother experiences both angina at rest and upon exertion. In addition, the Claimant

requires physical assistance with eating because she is unable to cut up foods due to arthritis. ----- indicated that her mother takes stool softeners and has bowel accidents at least three (3) times per week. She purported that her mother requires assistance to walk, normally uses her walker and cane, and holds onto objects in her apartment to steady herself. ----- contended that the Claimant is hard of hearing, gets agitated easily, and does not like people to speak for her. She indicated that the Claimant has a dementia diagnosis.

The WVMI Nurse testified that the Claimant denied requiring assistance with eating or cutting up foods on the date of the assessment, and indicated that she experienced bowel accidents about two (2) times per month. The nurse stated that she observed the Claimant walking in the home by holding onto the door and wall, and noted that the Claimant also had a cane and walker to use as needed. No information was provided by the Claimant's physician in regard to a dementia diagnosis for the 2012 PAS.

- 5) Aged/Disabled Home and Community-Based Services Waiver Policy Manual Sections 501.5.1.1(a) and 501.5.1.1(b) (D-1): 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- 0-62 hours per month
- Level B- 10 points to 17 points- 63-93 hours per month
- Level C- 18 points to 25 points- 94-124 hours per month
- Level D- 26 points to 44 points- 125-155 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.
- 2) The Claimant was awarded 15 points as the result of a PAS completed by WVMi in May 2012 in conjunction with her annual medical evaluation.
- 3) As a result of information presented during the hearing, no additional points are awarded to the Claimant. No information was provided during the PAS in regard to the Claimant's need for assistance with eating, total bowel incontinence, or need for physical assistance with walking. No information concerning a dementia diagnosis was provided by the Claimant's physician in regard to the 2012 PAS.
- 4) The Claimant's total number of points remains at 15, rendering her eligible to receive a Level "B" Level of Care.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to reduce the Claimant's homemaker service hours under the Aged/Disabled, Title XIX (HCB) Waiver Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 31st Day of August 2012.

**Pamela L. Hinzman
State Hearing Officer**