



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

Rocco S. Fucillo  
Cabinet Secretary

September 27, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 25, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your homemaker hours under the Aged/Disabled Waiver program from Level C to Level B care.

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. These regulations state 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 WVMH (Aged/Disabled Home and Community Based Waiver Policy and Procedures Manual § 501.5).

The information which was submitted at your hearing revealed that you no longer meet the medical criteria to receive services at Level C care.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce your homemaker hours to Level B care.

Sincerely,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review

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

**IN RE:** -----,

**Claimant,**

**v.**

**ACTION NO.: 12-BOR-1803**

**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 held on September 25, 2012, by telephone conference. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 700. This fair hearing was convened on a timely appeal, filed July 23, 2012.

It should be noted here that the Claimant's benefits under the Aged/Disabled Waiver program have continued at Level C care pending a decision.

**II. PROGRAM PURPOSE:**

The Aged/Disabled Waiver (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

-----, Claimant's Representative

Kay Ikerd, RN, Bureau of Senior Services

Stacy Leadman, RN, West Virginia Medical Institute

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

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department's proposed reduction of Claimant's homemaker hours is correct.

**V. APPLICABLE POLICY:**

Aged/Disabled Waiver Services Policy Manual § 501.5.1

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

**Department's Exhibits:**

- D-1 Aged/Disabled Waiver Services Policy Manual § 501.5.1
- D-2 Pre-Admission Screening dated June 27, 2012
- D-3 Notice of Decision dated June 28, 2012
- D-4 Pre-Admission Screening dated June 8, 2011

**VII. FINDINGS OF FACT:**

- 1) Claimant was re-evaluated for medical eligibility for the Aged/Disabled Waiver program on June 27 2012. A Pre-Admission Screening (PAS) was completed that date by Connie Sankoff, with the West Virginia Medical Institute (WVMI) (D-2).

Claimant received thirteen (13) points on the June 2012 PAS, which equates to a Level B care (D-3). A minimum of eighteen (18) points are required to receive services at Level C care (D-1).

- 2) The areas in contention on the June 2012 PAS are angina at rest, angina at exertion, bladder and bowel incontinence, and multi-infarct. Claimant's daughter and representative, ----- testified she was not present for the assessment. Claimant's granddaughter and former homemaker, was with Claimant when the WVMI nurse completed the evaluation. ----- stated Claimant and the homemaker forgot to advise the WVMI nurse that Claimant used nitroglycerin for chest pain. ----- stated the nitroglycerin is kept in Claimant's purse, apart from her other medications.

----- stated Claimant has bladder and bowel accidents daily, but her mother does not like to talk about the incontinence. Claimant was assessed as totally incontinent the previous year, and ----- stated it is impossible for someone to improve that much in only a year.

----- stated Claimant has a diagnosis of multi-infarct, that she received a point for the previous year. Claimant's Public Partnership consultant was supposed to submit

diagnoses of angina, incontinence and multi-infarct from the physician, and was surprised when the diagnoses had not been received.

3) Stacy Leadman, RN and Director of WVMI, presented the June 2012 PAS. Claimant denied symptoms of angina and bowel and bladder incontinence to the WVMI nurse who completed the medical evaluation. Ms. Leadman stated the documentation of the PAS appeared to be thorough, and based on the information provided, Claimant was correctly assessed as a Level B care.

4) Pertinent parts of the June 2011 PAS document (D-4):

Angina with rest/exertion: No Md dx; Rx med present [medical diagnosis, prescription medication]. M[emeber] denies present chest pain but she say had to take Nitro[lycerin] approx. 1 month ago and her pain subsided.

Continence, bowel/bladder: M reports daily incontinence of urine. She reports bowel incontinence approx. 3 x per week. She wears bladder pads.

Alzheimer's, multi-infarct, senile dementia, or related condition: Md dx of multi infarct

5) Pertinent parts of the June 2012 PAS document (D-2):

Angina with rest/exertion: denies, no dx/Rx. She blacked out while driving, and had the pacemaker inserted thereafter. [Homemaker] states the client is 100% dependent of the pacemaker.

Incontinence: The client states the following:  
bowel = denies any and all fecal incontinence  
bladder = denies any and all urinary incontinence  
Incontinent products are denied. Protective coverings are not noted on furniture, within view of assessment area

Alzheimer's, multi-infarct, senile dementia, or related condition: no md dx

6) Aged/Disabled Waiver Services Policy Manual § 501.5.1.1 states:

- #23 Medical Conditions/Symptoms- 1 point for each (can have total of 12 points)
- #24 Decubitus- 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
- #35 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. Claimant was awarded 13 points as the result of a PAS completed by WVMI in June 2012, in conjunction with her annual medical evaluation. Based on the points received on the PAS, Claimant was evaluated at a Level B care.
- 2) The matter to be decided upon is whether or not the WVMI nurse made a correct assessment of Claimant's medical conditions and functional abilities based on the information that was known at the time. Claimant denied symptoms of angina and did not provide the WVMI nurse with a prescription for nitroglycerin. Claimant also denied having bladder or bowel incontinence. Claimant was not given a diagnosis of multi-infarct on the medical necessity evaluation request. The WVMI nurse cannot award points for medical conditions unless there is a physician's diagnosis or prescribed medication used to treat the condition.
- 3) Points cannot be awarded for angina at rest or exertion or multi-infarct as the WVMI nurse did not have a diagnosis or prescribed medication. Claimant denied incontinence, and this was not contradicted by the homemaker. Based on the information that was available to the WVMI nurse, Claimant was correctly assessed as a Level B care.

**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 B 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 September 2012**

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**Kristi Logan  
State Hearing Officer**