



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
Board of Review
227 Third St.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 3, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 2, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to decrease your homemaker service hours under the Aged/Disabled Title XIX (Home & Community-Based) Waiver 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.

One of these regulations specifies that for the Aged and Disabled Waiver Program, the number of homemaker service hours is determined based on your 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 520 & 570.1)

Information submitted at your hearing revealed that you continue to require the degree of care and services necessary to qualify medically for the Aged/Disabled Waiver Program and your documented medical conditions confirm that your Level of Care should decrease to a Level "C" rating. As a result, you are eligible to receive four (4) hours per day or 124 hours per month of homemaker services.

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

Sincerely,

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

cc: Chairman, Board of Review
CCIL
WVMI
BoSS

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on June 3, 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 2, 2005 on a timely appeal filed February 8, 2005.

It should be noted that benefits under the Medicaid Title XIX Waiver (HCB) Program have continued at their previous level pending the results of this hearing.

All persons giving testimony were placed under oath.

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.

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:

_____, grandson of Claimant
_____, RN, Case Manager, CCIL
_____, RN, CCIL
Jane Meadows, RN, WVMI
Kay Ikerd, RN, BoSS, participating telephonically

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 decision to decrease the Claimant's homemaker service hours under the Aged/Disabled Waiver (HCB) Program.

V. APPLICABLE POLICY:

Aged/Disabled Home and Community-Based Services Manual 520, 570 and 580

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 Aged/Disabled Home and Community-Based Services Waiver Policy Manual 520, 570 and 580
- D-2 Pre-Admission Screening form PAS-2000 dated December 13, 2004
- D-3 Notice of Decision dated January 25, 2005

VII. FINDINGS OF FACT

1. The Claimant's Aged and Disabled Waiver case was undergoing an annual reevaluation to verify continued medical eligibility and to determine the appropriate Level of Care, hereinafter LOC. It should be noted that the Claimant was receiving homemaker services at a Level "D" LOC at the time of the evaluation.
2. On January 25, 2005, a Notice of Decision (D-3) was sent to the Claimant which states:

The West Virginia Medical Institute (WVMI) is the Quality Improvement Organization (QIO) authorized by the Bureau of Medical Services of the West Virginia Department of Health and Human Resources to determine medical necessity for the Aged and Disabled Waiver Program. You have been determined medically eligible to continue to receive in-home services under the Aged and Disabled Waiver Program. The number of homemaker service hours approved is based on your medical needs, and cannot exceed 124 hours per month.

3. Jane Meadows, RN, WVMI, completed a PAS-2000 medical assessment (D-2) for the Claimant on December 13, 2004. WVMI reviewed the medical assessment and the Claimant continues to meet the medical eligibility criteria. He was originally assigned 21 points to documented medical conditions that require nursing services and meets the criteria necessary to qualify as a LOC "C" (21 points)- eligible for four (4) hours per day or 124 hours per month of homemaker services.

Points were awarded in the following areas on the PAS-2000:

Question 23- Total 8 points (1 point awarded for each stated medical condition of angina at rest, angina upon exertion, dyspnea, significant arthritis, paralysis, dysphagia, mental disorder, and other- cerebral vascular accident)

Question 24- Decubitis, 0 points

Question 25- Vacating, 1 point

Question 26- Functional levels, total of 10 points awarded as follows: eating, 1 point; bathing, 1 point; dressing, 1 point; grooming, 1 point; bladder incontinence, 1 point; bowel incontinence, 1 point; transferring, 2 points; and walking, 2 points

Question 27- Professional/technical needs- 1 point

Question 28- Medication administration- 1 point

Question 34- Alzheimer's, multi-farct, senile dementia or related condition- 0 points

Question 35- Prognosis, stable, 0 points

The Claimant had been awarded one point for eating, but the Claimant's grandson, _____, indicated that the Claimant has a feeding tube. Since the Claimant utilized a feeding tube at the time the PAS was completed, Ms. Meadows agreed to award one additional point for eating, bringing the Claimant's total number of points to 22.

4. Mr. _____ testified that his grandfather suffers from depression, but Ms. Meadows explained the Claimant was awarded one point for this mental disorder under Question 23. Mr. _____ also stated that his grandfather cannot sufficiently bathe himself, however Ms. Meadows indicated that the Claimant is able to participate to an extent in his own bathing so he was rated as requiring physical assistance in this category. Mr. _____ indicated that he believes the PAS-2000 provides an accurate assessment of his grandfather's functional abilities.
5. The Aged/Disabled Home and Community-Based Services Manual 580.2 and 580.2,b (D-1) provides that a medical eligibility reevaluation may include either a periodic or annual reevaluation. The purpose of the reevaluations is to confirm and validate an individual's continued medical eligibility for ADW services and to establish whether there is any change in the LOC the individual requires. All clients must be evaluated at least annually.
6. Aged/Disabled Home and Community-Based Services Waiver Policy Manual 570.1 and 570.1.d (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- 1 point for each (can have total of 12 points)
 - #24- 1 point
 - #25- 1 point for B, C or D
 - #26- Level I- 0 points
Level II- 1 point for each item A through I
Level III- 2 points for each item A through M; I (walking) must be equal to or greater than Level III before points are given for J (wheeling)
Level IV- 1 point for A, 1 point for E, 1 point for F, 2 points for G through M
 - #27- 1 point for continuous oxygen
 - #28- 1 point for Level B or C
 - #34- 1 point for Alzheimer's or other dementia

#35- 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

VII. CONCLUSIONS OF LAW

1. Based on testimony presented on behalf of the Claimant, one additional point was awarded under the category of eating in regard to the Claimant's feeding tube. This point brought the Claimant's total number of points to 22, however, it results in no changes to the Level of Care proposed by the Agency.

VIII. DECISION:

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 decrease homemaker service hours under the Aged/Disabled Title XIX (HCB) Waiver Program.

IX. RIGHT OF APPEAL

See Attachment.

X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.