



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 24, 2006

Dear Ms. _____:

Attached is a dismissal order of your fair hearing request of February 7, 2005 concerning the Department's proposed reduction in your homemaker service hours under the Aged/Disabled Waiver Program.

After two unsuccessful attempts to conduct telephone hearings with you, I find that your hearing issues cannot be adequately addressed since your case management agency and/or representatives were not present during these attempts and you appeared confused regarding the purpose of the hearing.

It is therefore the decision of the State Hearing Officer to **dismiss** your February 7, 2005 hearing request.

Sincerely,

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

cc: Chairman, Board of Review
BoSS
Hands & Hearts

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,
Claimant,

v.

Action Number 05-BOR-4711

**West Virginia Department of Health & Human Resources,
Respondent.**

BOARD OF REVIEW DISMISSAL ORDER

In correspondence received by the Bureau for Medical Services on February 7, 2005, the Claimant, _____, requested a fair hearing to appeal a proposed reduction in homemaker service hours under the Aged/Disabled Waiver Program.

Findings of Fact:

- 1) A hearing request was completed for the Claimant regarding a proposed reduction in her Level of Care from a Level "C" (124 homemaker service hours per month) to a Level "B" (93 homemaker service hours per month). The Claimant signed the request on January 31, 2005 and the request was submitted to the Bureau for Medical Services on February 7, 2005. The hearing type selected was a telephone conference.
- 2) The telephone hearing was originally scheduled for July 8, 2005 by State Hearing Officer Michael Payne, but was continued until August 3, 2005 due to a scheduling conflict.
- 3) State Hearing Officer Pamela Hinzman attempted to conduct the telephone hearing on August 3, 2005, but the Claimant was alone at her residence and appeared confused about the purpose of the hearing.

- 4) The hearing was rescheduled for January 12, 2006 so that the Claimant's case management agency could possibly assist her with representation, but it was continued pending the completion of a new PAS assessment since the Claimant was due for an annual medical re-evaluation.
- 5) The PAS assessment was completed and it was again determined that the Claimant was eligible for a Level "B" Level of Care.
- 6) The hearing was rescheduled and the Hearing Officer attempted to conduct it on April 6, 2006. However, the Claimant was again alone at her residence and appeared confused about the purpose of the hearing.
- 7) The Claimant was sent correspondence on April 10, 2006 - with a copy sent to her case management agency - requesting that she or the case management agency contact the Hearing Officer within 14 days if she still wished to pursue a hearing. The correspondence advised the Claimant that if she or the case management agency failed to contact the Hearing Officer within 14 days that the hearing request would be dismissed.
- 8) No response was received by the Claimant by April 24, 2006.

Conclusion of Law:

- 1) Whereas two unsuccessful attempts have been made by the Hearing Officer to conduct telephone hearings after providing sufficient notice to the Claimant and Case Management Agency, the Hearing Officer concludes that the Claimant's hearing issues cannot be addressed in an adequate manner.

Decision:

The Claimant's February 7, 2005 hearing request is therefore **dismissed**.

ENTERED this 24th day of April 2006.

**Pamela L. Hinzman
State Hearing Officer**

RIGHT OF APPEAL:

See Attachment.

ATTACHMENTS:

The Claimant's Recourse.

Form IG-BR-29.