



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

February 6, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 27, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce the number of homemaker service hours under the Aged/Disabled Home and Community Based Services Waiver (ADW) 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 Home and Community Based Services Waiver (ADW) Program is based on current policy and regulations. Some of these regulations state as follows: There are four levels of care for clients of ADW Homemaker Services. Points will be determined from information derived from certain sections of the PAS-2000. (Chapter 570.1.c of the Medicaid Aged & Disabled Waiver Program Policies & Procedures Manual effective November 1, 2003)

The information which was submitted at your hearing revealed that after review of the current PAS-2000, you meet the criteria for Level of Care B which equates to 93 service hours per month.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to reduce the number of homemaker service hours under the Aged/Disabled Home and Community Based Services Waiver (ADW) Program.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Libby Boggess, BoSS
[REDACTED], WVMH
Americare Management Services Inc.

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

_____,

Claimant,

v.

Action Number: 05-BOR-6339

**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 October 27, 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 October 27, 2005 on a timely appeal, filed August 3, 2005. It should be noted this hearing was originally scheduled for October 25, 2005 but was rescheduled to October 27, 2005 at the request of BoSS.

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

II. PROGRAM PURPOSE:

The Program entitled Aged/Disabled Home and Community-Based Services Waiver (ADW) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Aged/Disabled Home and Community-Based Services Waiver (ADW) Program is defined as a long-term care alternative which enables the individual to remain at or return home rather than receiving nursing facility (NF) care. The program provides eligible individuals with a range of services comparable to those services provided in a nursing facility. Specifically, ADW program services include assistance with personal hygiene, nutritional services which include food preparation and feeding, arrangement for medical and nursing care, medication administration, and environmental maintenance necessary for clients to remain in their homes.

III. PARTICIPANTS:

_____, Claimant's Daughter and Representative (By Telephone)
_____, CM, Americare Management Services Inc. (By Telephone)
Brian Holstine, LSW, BoSS (By Telephone)
_____, RN, WVMI (By Telephone)

Presiding at the hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether correct policy and procedures were used in the proposal to decrease the number of homemaker service hours the claimant is eligible to receive under the ADW Program.

V. APPLICABLE POLICY:

Sections 580.2, 580.2.b, 570.1.c, and 570.1.d of the Medicaid Aged & Disabled Waiver Program Policies & Procedures Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Sections 570.1.c, 570.1.d, 580.2, and 580.2.b of the Medicaid Aged & Disabled Waiver Program Policies & Procedures Manual effective November 1, 2003
- D-2 PAS-2000 dated 07/14/2005
- D-3 Notification Letter dated 07/20/2005
- D-4 Memorandum dated 11/01/04 entitled "Request for Additional Hours in A/D Waiver Program"

VII. FINDINGS OF FACT:

- 1) The claimant is a recipient of ADW services.
- 2) A review of medical eligibility was completed on 07/14/05.(D-2) The claimant was found eligible for 93 homemaker service hours per month which equates to Level of Care B. She had been previously eligible for Level of Care C. She was notified of this change in a notification letter dated 07/20/2005. (D-3) The claimant requested a hearing on 08/03/05.

3) The information contained in the claimant=s PAS-2000 demonstrates the following:

Item 23 - 5 items marked	=	5	points
Item 24 - no decubitus	=	0	points
Item 25 - Physically unable to vacate	=	1	point
Item 27 - Professional needs	=	0	points

Item 28 – Prompting/sup meds	=	1	points
Item 34 – Dementia	=	1	points
Item 35 - Prognosis-stable	=	0	points

Item 26:

Level I for items e, f, g, j, l and m = 0 points
(continent of bladder/bowel, oriented, no wheelchair, communication/hearing not impaired)

Level II for items a, b, c, d, h, i and k = 6 points
(eating, bathing, dressing, grooming – physical assistance, transferring and walking – supervised/assistive device, vision – impaired/correctable)

Level III no items listed = 0 points

Level IV no items listed = 0 points

Total = 14 points (Level of Care B or 93 Hours)

4) Testimony from Ms. _____ revealed that her mother has a lot of days that are not as good as the one she was having when the evaluation was done. She gets weak and will stay in bed all day.

5) **Section 570.1.a of the Medicaid Aged & Disabled Waiver Program Policies & Procedures Manual effective November 1, 2003 reads:**

The purpose of the medical eligibility review is to ensure the following:

- A. New applicants and existing clients are medically eligible based on current and accurate evaluations.
- B. Each applicant/client determined to be medically eligible for ADW services receives an appropriate level of care (LOC) that reflects current/actual medical condition and short- and long-term service needs.
- C. The medical eligibility determination process is fair, equitable, and consistently applied throughout the state.

6) **Section 580.2 of the Medicaid Aged & Disabled Waiver Program Policies & Procedures Manual effective November 1, 2003 reads in part:**

A medical eligibility reevaluation may include either a periodic or annual reevaluation. The purpose of either of these 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.

7) **Section 580.2.b of the Medicaid Aged & Disabled Waiver Program Policies & Procedures Manual effective November 1, 2003 reads in part:**

All clients must be evaluated at least annually in order to confirm their medical eligibility for continued services and to establish the LOC they require.

8) **Section 570.1.c of the Medicaid Aged & Disabled Waiver Program Policies & Procedures Manual effective November 1, 2003 reads:**

There are four levels of care for clients of ADW Homemaker Services. Points will be determined as follows, 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 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 if Alzheimer's or other dementia

#35 - 1 point if terminal

9) **Section 570.1.d of the Medicaid Aged & Disabled Waiver Program Policies & Procedures Manual effective November 1, 2003 reads:**

LEVELS OF CARE SERVICE LIMITS

Total number of points possible is 44.

Levels of Care Service Limits:

Level	Points Required	Hours Per Day	Hours Per Month
A	5-9	2	62
B	10-17	3	93
C	18-25	4	124
D	26-44	5	155

The total number of hours may be used flexibly within the month, but must be justified and documented on the POC.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that there are four levels of care for clients of ADW homemaker services. Points are determined by findings on the PAS-2000. .
- 2) The claimant was found to be eligible for 93 homemaker service hours per month. This was based on a PAS-2000 assessment completed 07/14/2005. The point total was 14.
- 3) There was no convincing evidence or testimony presented during the hearing that would result in a change in the Level of Care determination on information gathered on the PAS-2000 dated 07/14/2005.
- 4) The claimant is found to be eligible for 93 service hours per month.

IX. DECISION:

Based on evidence and testimony provided during the hearing, the State Hearing Officer finds that the Department has correctly determined the claimant's level of care according to the information found on the PAS-2000 form. The Department is upheld in the decision to reduce the number of service hours to 93 under the Aged/Disabled Home and Community-Based Services Waiver (ADW) Program. The action described in the notification letter dated July 20, 2005 will be taken.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th Day of February, 2006.

**Margaret M. Mann
State Hearing Officer**