



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

September 6, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 5, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your 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 WVM. (Aged/Disabled Home and Community-Based Services Waiver Policy and Procedures Manual 501.5.1.1)

While information submitted at your hearing reveals that you continue to require the degree of care and services necessary to qualify medically for the Aged/Disabled Waiver Program, your documented medical conditions confirm that your Level of Care should be a Level "C" rating. As a result, you are eligible to receive up to 124 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 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
WVM
CWVAS

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1648

**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 September 5, 2012, on a timely appeal submitted to the Department on June 18, 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
-----, Homemaker, Mountain State Home Health Care
Kay Ikerd, RN, Bureau of Senior Services
Courtenay Smith, 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 24, 2012
- D-3 Notice of Decision dated June 4, 2012
- D-4 Notice of Decision dated June 11, 2012
- D-5 Pre-Admission Screening (PAS) assessment completed on June 28, 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 Courtenay Smith completed a Pre-Admission Screening (PAS) medical assessment (D-2) on May 24, 2012, and determined that the Claimant continues to meet the medical eligibility criteria. The Claimant was assigned 21 points for documented medical conditions that require nursing services and meets the criteria necessary to qualify as a Level of Care "C" - eligible for up to 124 hours per month of homemaker services. It should be noted that the Claimant previously qualified for a Level of Care "D" - eligible for up to 155 hours per month of homemaker services - as a result of a PAS completed on June 28, 2011 (D-5).
- 3) The Department sent the Claimant Notices of Decision on June 4, 2012 (D-3), and again on June 11, 2012 (D-4, sent in response to additional diagnostic verification), advising her of the proposed reduction in homemaker service hours.

- 4) The Claimant testified that she is having more difficulty walking and has bowel incontinence. She indicated that she wears adult diapers most of the time. The Claimant stated that she has an open wound on her stomach, and that her homemaker washes her and her husband clips her fingernails.

The WVMI Nurse testified that the Claimant was rated as requiring supervision/assistive device for walking on the date of the assessment because the Claimant indicated she used a walker and cane, and held onto walls and furniture. She had indicated that she occasionally needs one-person assistance to walk in the home, but does not need this level of assistance on a regular basis. The Claimant denied bowel incontinence on the date of the assessment, and was rated as requiring physical assistance with bathing and grooming. Kay Ikerd, Registered Nurse with the Bureau of Senior Services, testified that the open wound described on the Claimant's stomach would not be classified as a decubitus (bed sore). Ms. Ikerd indicated that the Claimant's Homemaker-Registered Nurse could submit a request for an increase in Level of Care if the Claimant's condition has worsened.

- 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 21 points as the result of a PAS completed by WVMI in May 2012 in conjunction with her annual medical evaluation. No additional points are awarded to the Claimant as a result of testimony presented during the hearing. The Claimant denied bowel incontinence on the date of the assessment, reported no decubitus, and indicated she required physical assistance to bathe and groom. While the Claimant reported needing physical assistance to walk on an occasional basis, the awarding of one (1) additional point for one-person assistance with walking would be moot, as the Claimant would continue to lack the number of points required (at least 26) to elevate her to a Level “D” Level of Care.
- 3) The Claimant’s total number of points remains at 21, rendering her eligible to receive a Level “C” 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 6th Day of September, 2012.

**Pamela L. Hinzman
State Hearing Officer**