



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

October 3, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 2, 2012. Your hearing request was based on the Department of Health and Human Resources' denial of your application for Aged/Disabled Waiver services.

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 to be medically eligible for services, an individual must receive five deficits on the assessment tool known as the Pre-Admission Screening form (Aged/Disabled Home and Community Based Waiver Services Manual § 501.5.1).

The information submitted at your hearing failed to establish medical eligibility for the Aged/Disabled Waiver program.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your application for Aged/Disabled Waiver Services.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Bureau for Senior Services

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1811

**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 October 2, 2012. 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 17, 2012.

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 for Senior Services (testified by phone)

Teena Testa, RN, West Virginia Medical Institute (testified by phone)

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 correctly denied Claimant Aged/Disabled Waiver services.

V. APPLICABLE POLICY:

Aged/Disabled Home and Community Based Waiver Policy Manual §501.5

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Aged/Disabled Home and Community Based Waiver Policy Manual §501.5
- D-2 Pre-Admission Screening dated June 13, 2012
- D-3 Potential Denial Letter dated June 18, 2012
- D-4 Notice of Decision dated July 5, 2012

VII. FINDINGS OF FACT:

- 1) Claimant was evaluated for medical eligibility for the ADW program on June 13, 2012. A Pre-Admission Screening (PAS) was completed that date by Teena Testa, RN with the West Virginia Medical Institute (WVMI)(D-2).

Claimant was awarded no deficits on the June 2012 PAS. Five (5) deficits are required for Claimant to receive ADW services (D-1 and D-4).

- 2) Claimant's daughter-in-law and representative, -----, testified on behalf of Claimant. --- stated Claimant was receiving personal care services through the ----- County senior center, and there was some confusion as to how an application for ADW services had been made on Claimant's behalf. ----- stated when Claimant received the denial letter for ADW services, she thought her personal care services were being terminated, as well as her Medicaid. Although there have been some changes to Claimant's medical condition since the June 2012 medical evaluation, ----- agreed that Claimant did not have any deficits as defined by policy.

- 3) Aged/Disabled Waiver Policy Manual § 501.5.1.1 states (D-1):

Medical Criteria

An individual must have five (5) deficits on the PAS to qualify medically for the ADW program. These deficits are derived from a combination of the following assessment elements on the PAS.

#24 Decubitus - Stage 3 or 4

#25 In the event of an emergency, the individual is c) mentally unable or d) physically unable to vacate a building. a) Independently and b) With Supervision are not considered deficits.

#26 Functional abilities of individual in the home

- (a) Eating - Level 2 or higher (physical assistance to get nourishment, not preparation)
- (b) Bathing - Level 2 or higher (physical assistance or more)
- (c) Dressing - Level 2 or higher (physical assistance or more)
- (d) Grooming - Level 2 or higher (physical assistance or more)
- (e) Bowel Continence - Level 3 or higher; must be incontinent
- (f) Bladder Continence – Level 3 or higher; must be incontinent
- (g) Orientation - Level 3 or higher (totally disoriented, comatose)
- (h) Transfer - Level 3 or higher (one-person or two-person assistance in the home)
- (i) Walking - Level 3 or higher (one-person assistance in the home)
- (j) Wheeling - Level 3 or higher (must be Level 3 or 4 on walking in the home to use Level 3 or 4 for wheeling in the home. Do not count outside the home)

#27 Individual has skilled needs in one or more of these areas:

- (g)suctioning (h)tracheostomy, (i)ventilator, (k)parenteral fluids, (l)sterile dressings, or (m) irrigations

#28 Individual is not capable of administering his own

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that an individual must receive five (5) deficits on the PAS assessment tool in order to qualify medically for the Aged/Disabled Waiver program. Claimant received no deficits on her June 2012 PAS.
- 2) Claimant's representative was in agreement with the Department that she did not have any qualifying deficits to meet the medical criteria for Aged/Disabled Waiver services.
- 3) Claimant was correctly denied Aged/Disabled Waiver services based on the medical criteria set forth in policy.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's denial of Aged/Disabled Waiver services for Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd day of October 2012

Kristi Logan
State Hearing Officer