



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

Sherri A Young, DO, MBA, FAAFP
Interim Cabinet Secretary

Christopher G. Nelson
Interim Inspector General

October 31, 2023

[REDACTED]
[REDACTED] Rd., Apt. 107
Wayne, WV 25570

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-2501

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

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

Encl: Recourse to Hearing Decision
Form IG-BR-29

Cc Tamra Grueser, BoSS

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

[REDACTED],

Appellant,

v.

Action Number: 23-BOR-2501

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for Rhoda Helmondollar. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on October 31, 2023, on an appeal filed August 7, 2023.

The matter before the Hearing Officer arises from the July 6, 2023, decision by the Respondent to decrease the Appellant's Level of Care under the Aged/Disabled Waiver Medicaid Program.

At the hearing, the Respondent appeared by Tamra Grueser, RN, Bureau of Senior Services, WVDHHR. Appearing as a witness for the Respondent was Erica Blake, RN, KEPRO. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were [REDACTED] Case Manager, [REDACTED], and [REDACTED], care provider, [REDACTED]. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Aged/Disabled Waiver Policy Chapters 501.11.1, 501.11.2.1 and 501.11.2.2
- D-2 Notice of Decision dated July 6, 2023
- D-3 Pre-Admission Screening (PAS) dated July 3, 2023
- D-4 PAS Summary dated July 3, 2023
- D-5 PAS Summary dated July 21, 2022
- D-6 Aged and Disabled Waiver Service Plan dated July 10, 2023
- D-7 Aged and Disabled Waiver- Personal Attendant Log dated August 1, 2023
- D-8 Aged and Disabled Waiver- Medication Profile dated July 10, 2023
- D-9 Aged and Disabled Waiver- Case Management Assessment dated July 10, 2023

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant is a recipient of Aged/Disabled Waiver Medicaid benefits.
- 2) The Appellant previously qualified for a Level D Level of Care under the Aged/Disabled Waiver Program as the result of a Pre-Admission Screening (PAS) completed in July 2022 (Exhibit D-5).
- 3) A new PAS was completed for the Appellant on July 3, 2023, in conjunction with her annual assessment (Exhibit D-3).
- 4) At the time of the PAS, the Appellant could self-perform some bathing and grooming tasks (Exhibit D-3).
- 5) At the time of the PAS, the Appellant denied the use of a wheelchair in the home (Exhibit D-3).
- 6) The Appellant received 25 service level points on the July 2023 PAS, which equates to Level of Care C (Exhibits D-3 and D-4).
- 7) The Appellant was notified of the Level of Care decrease in a Notice of Decision dated July 6, 2023 (Exhibit D-2).

APPLICABLE POLICY

Aged and Disabled Waiver Manual Policy Chapters 501.11.2.1 and 501.11.2.2 (D-1) set forth the Service Level criteria.

There are four service levels for personal attendant services. Points will be determined as follows 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

#35- Prognosis- 1 point if terminal

The total number of points possible is 44.

501.11.2.2 Service Level Range of Hours

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

DISCUSSION

Aged/Disabled Waiver Medicaid Policy states that to be assessed at a Level D Level of Care, an individual must receive at least 26 points on the PAS assessment. The Appellant was evaluated at a Level C Level of Care after receiving 25 points during a PAS completed in July 2023.

During the hearing, [REDACTED], Case Manager with [REDACTED], testified that the Appellant required total care with dressing and grooming in July 2023, and uses her wheelchair at all times in the home.

Erica Blake, Registered Nurse, KEPRO, was the assessing nurse for the July 2023 PAS. Ms. Blake testified that the Appellant reported a need for physical assistance with dressing at the time of the PAS, but could slip on her own shoes, and could snap, button, and zip (with extra time required due to tremors). Ms. Blake stated that the Appellant reported a need for physical assistance with grooming, but could comb her own hair, perform her own oral care, and apply deodorant. Therefore, the Appellant was rated as requiring physical assistance to dress and groom. The Appellant denied the use of a wheelchair in the living environment at the time the PAS was completed.

Tamra Grueser, Registered Nurse with the Bureau of Senior Services, testified that the Appellant had been hospitalized since the time of the PAS and that the Case Management Agency could submit a level of care increase request if the Appellant's condition has worsened since July 2023.

CONCLUSIONS OF LAW

- 1) To receive a Level D Level of Care under the Aged/ Disabled Waiver Medicaid Program, an individual must receive at least 26 points on the PAS assessment.

- 2) The Appellant received 25 points on her July 2023 PAS assessment, which equates to a Level C Level of Care.
- 3) Based on information/documentation provided during the hearing, no additional points can be awarded to the Appellant.
- 4) The Appellant has not met the criteria for a Level D Level of Care.
- 5) The Respondent's decision to decrease the Appellant's Level of Care is affirmed.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to decrease the Appellant's Level of Care under the Aged/Disabled Waiver Medicaid Program.

ENTERED this 31st Day of October 2023.

**Pamela L. Hinzman
State Hearing Officer**