



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Joe Manchin III  
Governor

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

September 2, 2010

-----for -----

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 31, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny ----- services under the Long Term Care Medicaid program.

In arriving at a decision, the State Hearings 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 Long Term Care program is based on current policy and regulations. These regulations provide that to qualify medically for the nursing facility Medicaid benefit, an individual must need direct nursing care 24 hours a day, seven days a week. The Bureau has designated a tool known as the Pre-Admission Screening form (PAS) to be utilized for physician certification of the medical needs of Medicaid applicants. An individual must have a minimum of five deficits identified on the PAS in order to qualify for the Medicaid nursing facility benefit (Nursing Facility Services Provider Manual Chapter 514).

The information submitted at your hearing revealed that ----- has a deficit in bladder incontinence and therefore meets the medical criteria for Long Term Care services.

It is the decision of the State Hearings Officer to **Reverse** the action of the Department to deny ----- Long Term Care services.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Bureau of Medical Services

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-1675**

**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 August 31, 2010 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.

**II. PROGRAM PURPOSE:**

The Program entitled Long Term Care is administered by the West Virginia Department of Health & Human Resources.

The program entitled Long Term Care Medicaid (nursing facility services) is a medical service which is covered by the State's Medicaid Program. Payment for care is made to nursing homes which meet Title XIX (Medicaid) standards for the care provided to eligible recipients. In order to qualify for Nursing Home Care, an individual must meet financial and medical eligibility criteria.

**III. PARTICIPANTS:**

-----, Representative for Claimant

Kelley Johnson, Program Manager, Bureau of Medical Services  
Stephanie Sheffer, RN, West Virginia Medical Institute

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

All participants testified by phone.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department's decision to deny Claimant Long Term Care services was correct.

**V. APPLICABLE POLICY:**

Nursing Facility Manual § 514.8

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Nursing Facility Manual § 514.8
- D-2 Pre-Admission Screening Form dated June 14, 2010
- D-3 Denial Notification Letter dated July 6, 2010
- D-4 Medical Records from Veteran's Medical Center

**Claimants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) Claimant applied for Long Term Care (LTC) services in June 2010. A Pre-Admission Screening Form (PAS) was completed on June 14, 2010. Claimant was awarded deficits in the areas of bathing, grooming, dressing and walking (D-2). One (1) additional deficit was required for Claimant to meet the medical criteria for LTC services.
- 2) Claimant's sister, -----, testified on Claimant's behalf. -----stated Claimant has urinary incontinence. She stated he is constantly wet and leaks through his pads. -----felt like Claimant did not have the ability to recognize the urge to urinate nor the desire to change his undergarments when wet.

-----testified Claimant is prescribed oxybutynin chloride for bladder control as well as finasteride for a prostate condition. He also has a prescription for Depends undergarments and bed underpads (D-4).

Additionally, Claimant was diagnosed with bladder incontinence by [REDACTED] PA-C on April 22, 2010 (D-4).

- 3) Kelly Johnson, Program Manager with the Bureau of Medical Services, conceded on behalf of the Department that Claimant has a deficit in bladder incontinence.

- 4) Nursing Facility Services Manual § 514.8.2 states:

### **MEDICAL ELIGIBILITY**

To qualify medically for the nursing facility Medicaid benefit, an individual must need direct nursing care twenty-four (24) hours a day, seven (7) days a week. The Bureau has designated a tool known as the Pre-Admission Screening form (PAS) to be utilized for physician certification of the medical needs of individuals applying for the Medicaid benefit. See Attachment.

An individual must have a minimum of five (5) deficits identified on the PAS in order to qualify for the Medicaid nursing facility benefit. These deficits may be any of the following:

- #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) and b) are not considered deficits.
- #26: Functional abilities of individual in the home.
  - Eating - Level 2 or higher (physical assistance to get nourishment, not preparation)
  - Bathing - Level 2 or higher (physical assistance or more)
  - Grooming - Level 2 or higher (physical assistance or more)
  - Dressing - Level 2 or higher (physical assistance or more)
  - Continence - Level 3 or higher (must be incontinent)
  - Orientation - Level 3 or higher (totally disoriented, comatose)
  - Transfer - Level 3 or higher (one person or two persons assist in the home)
  - Walking - Level 3 or higher (one person assist in the home)
  - 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/her own medications.

### **VIII. CONCLUSIONS OF LAW:**

- 1) To qualify medically for Long Term Care Medicaid, an individual must have at least five (5) functional deficits. Claimant received deficits in bathing, grooming, dressing and walking as a result of the PAS completed in June 2010.
- 2) Based on the documentation provided, Claimant had been diagnosed with urinary incontinence prior to the date of the PAS, and was also prescribed medication for bladder control and undergarments. Claimant will be awarded a deficit in the area of bladder incontinence.

- 3) Claimant meets the medical criteria as set forth in policy to qualify for Long Term Care services.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the decision of the Department to deny Claimant medical eligibility for the Long Term Care Medicaid program. Claimant will be awarded a deficit in the area of bladder incontinence.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2<sup>nd</sup> day of September 2010.**

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**Kristi Logan  
State Hearing Officer  
Member, Board of Review**