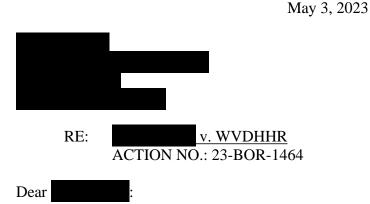


STATE OF WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES Office of the Inspector General Board of Review

Jeffrey H. Coben, MD Interim Cabinet Secretary Sheila Lee Interim Inspector General



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: Appellant's Recourse to Hearing Decision Form IG-BR-29
- cc: Lori Tyson, WVDHHR Terry McGee, WVDHHR

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WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES BOARD OF REVIEW

,

Appellant,

v.

Action Number: 23-BOR-1464

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 **December**. 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 May 2, 2023.

The matter before the Hearing Officer arises from the March 27, 2023 decision by the Respondent to deny benefits under the Long-Term Care Medicaid Program.

At the hearing, the Respondent appeared by Terry McGee, Program Manager for Long-Term Care Facilities, Bureau for Medical Services, WVDHHR. Appearing as a witness for the Respondent was Melissa Grega, Registered Nurse/Nurse Reviewer, KEPRO. The Appellant was represented by Nurse Practitioner, All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated March 27, 2023
- D-2 Chapter 514, Nursing Facility Services, policy information sheet
- D-3 Pre-Admission Screening assessment completed on March 20, 2023

Appellant's Exhibits:

None

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 resident of

- 2) A Pre-Admission Screening (PAS) was completed for the Appellant on March 20, 2023, to determine the Appellant's medical eligibility for Long-Term Care Medicaid benefits (Exhibit D-3).
- 3) On March 27, 2023, the Respondent sent the Appellant a Notice of Decision stating that his request for Long-Term Care Medicaid benefits was denied (Exhibit D-1).
- 4) The Notice indicated that the Appellant had four (4) deficiencies in the functional areas assessed on the PAS. The deficits included physical assistance with grooming, dressing, and bathing, and inability to vacate the building in the event of an emergency (Exhibit D-1).

APPLICABLE POLICY

Bureau for Medical Services Policy Manual Chapter 514.5.3 states 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 BMS has designated a tool known as the Pre-Admission Screening (PAS) form (Appendix B) to be utilized for physician certification of the medical needs of individuals applying for the Medicaid benefit.

An individual must have a minimum of five (5) deficits as identified on the PAS to qualify for the 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 assists 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 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

DISCUSSION

Policy dictates that an individual must have a minimum of five (5) deficits as identified on the PAS to qualify for the Long-Term Care Medicaid Program.

The Appellant received four (4) deficits on a PAS completed in March 2023, which resulted in denial of Long-Term Care Medicaid benefits.

, Nurse Practitioner at the analysis of the second second

As a result of testimony provided during the hearing, one (1) additional deficit is awarded to the Appellant in the functional area of continence/bladder and bowel. Therefore, the Appellant meets medical eligibility criteria for the Long-Term Care Medicaid Program.

CONCLUSIONS OF LAW

- 1) Policy states that an individual must receive at least five (5) deficits on the PAS to qualify medically for the Long-Term Care Medicaid Program.
- 2) The Appellant was awarded four (4) deficits on a PAS completed in March 2023.
- 3) One (1) additional deficit in the functional area of continence was awarded to the Appellant based on information provided during the hearing.
- 4) The Appellant is medically eligible for the Long-Term Care Medicaid Program.

DECISION

It is the decision of the State Hearing Officer to REVERSE the Respondent's March 2023 action to deny the Appellant's medical eligibility under the Long-Term Care Medicaid Program.

ENTERED this <u>3rd</u> day of May 2023.

Pamela L. Hinzman State Hearing Officer