



April 24, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-1751

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 Human Services. These same laws and regulations are used in all cases to ensure 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: Kesha Walton, DoHS
Terry McGee, DoHS

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 24-BOR-1751

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES
BUREAU FOR MEDICAL SERVICES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on April 23, 2024.

The matter before the Hearing Officer arises from the Respondent's denial of Long-Term Care Medicaid benefits as outlined in a notice dated January 25, 2024.

At the hearing, the Respondent appeared by Terry McGee, Program Manager, Long-Term Care Facilities, WVDoHS. Appearing as a witness for the Respondent was Melissa Grega, Nurse Reviewer, Acentra Health. The Appellant appeared by ██████████ Administrator, ██████████. Appearing as witnesses for the Appellant were ██████████, Director of Nursing, ██████████, and ██████████ Social Worker, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated January 25, 2024
- D-2 Bureau for Medical Services Provider Manual Chapter 514.6
- D-3 Pre-Admission Screening dated January 25, 2024
- D-4 ██████████ Order Summary Report as of January 25, 2024

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, age 76, has been a resident of [REDACTED] since March 2022.
- 2) The Appellant has been diagnosed with Alzheimer’s Disease, dementia, schizoaffective disorder, and major depression, in addition to several physical disorders (Exhibit D-3).
- 3) The Appellant’s physician completed a Pre-Admission Screening (PAS) for the Appellant on January 25, 2024 (Exhibit D-3).
- 4) The Respondent sent the Appellant a Notice of Decision on January 25, 2024, informing him that Long-Term Care Medicaid services were denied (Exhibit D-1).
- 5) The Notice states that four (4) deficits were awarded to the Appellant in the functional areas of medication administration, grooming, bathing, and dressing (Exhibit D-1).
- 6) Five (5) deficits are required to establish medical eligibility for the Long-Term Care Medicaid Program (Exhibit D-2).

APPLICABLE POLICY

Bureau for Medical Services Provider Manual Chapter 514.5.3 states that to medically qualify 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, to be utilized for physician certification of the medical needs of individuals applying for Medicaid benefits. The PAS must be completed, signed, and dated by a physician.

To qualify for the nursing facility Medicaid benefit, an individual must have a minimum of five deficits identified on the PAS. These deficits may be any of the following (numbers represent questions on the PAS form):

- #24: Decubitus – Stage 3 or 4
- #25: In the event of an emergency, the individual is mentally or physically unable to vacate a building. Independently and with supervision are not considered deficits.
- #26: Functional abilities of the individual in the home.
 - Eating: Level 2 or higher (physical assistance to get nourishment...)
 - 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)
- Contenance: Level 3 or higher (must be incontinent)
- Orientation: Level 3 or higher (totally disoriented, comatose)
- Transfer: Level 3 or higher (one person or two person assist in the home)
- Walking: Level 3 or higher (one person assistance in the home)
- Wheeling: Level 3 or higher
- #27: Individual has skilled needs in one of these areas: suctioning, tracheostomy, ventilator, parenteral fluids, sterile dressings, or irrigations
- #28: Individual is not capable of administering his/her own medications

DISCUSSION

Policy states that to qualify for the nursing facility Medicaid benefit, an individual must have a minimum of five (5) deficits identified on the Pre-Admission Screening form.

The Appellant was awarded four (4) deficits on a PAS completed in January 2024.

During the hearing, [REDACTED], Administrator at [REDACTED], testified about the Appellant's mental conditions and contended that the Appellant would require physical assistance to exit the building in the event of an emergency. She stated that the Appellant would likely panic and would have to be physically led from the facility, particularly in the nighttime hours. She indicated that the same need for vacating assistance existed at the time of the January 2024 PAS. [REDACTED] testified that the Appellant's condition is deteriorating and he now experiences daily bowel incontinence. She stated that he has been unable to clean himself properly following bowel movements for months. Melissa Grega, Nurse Reviewer with Acentra Health, testified that inability to clean up properly following a bowel movement is considered a deficit in the functional area of continence.

Based on information provided during the hearing, two (2) additional deficits are awarded to the Appellant in the functional areas of vacating and continence. The awarding of two (2) additional deficits renders the Appellant medically eligible for Long-Term Care Medicaid benefits.

CONCLUSIONS OF LAW

- 1) To medically qualify for Long-Term Care Medicaid benefits, an individual must have a minimum of five (5) deficits identified on the Pre-Admission Screening form.
- 2) The Appellant received four (4) deficits on a PAS completed in January 2024.
- 3) As a result of information provided during the hearing, two (2) additional deficits are awarded to the Appellant.
- 4) As the Appellant has a total of six (6) functional deficits, the Appellant is medically eligible for Long-Term Care Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to deny Long-Term Care Medicaid benefits.

ENTERED this 24th day of April 2024.

**Pamela L. Hinzman
State Hearing Officer**