



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

Karen L. Bowling
Cabinet Secretary

April 1, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1114

Dear Ms. [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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Bureau for Medical Services

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1114

**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 ██████████. 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 March 18, 2015, on an appeal filed January 21, 2015.

The matter before the Hearing Officer arises from the January 9, 2015, decision by the Respondent to deny Person Centered Support-Agency and Respite services under the I/DD Waiver program.

At the hearing, the Respondent appeared by ██████████, APS Healthcare. Appearing as a witness for the Respondent were ██████████, APS Healthcare and Taniua Hardy, Bureau for Medical Services. The Claimant appeared by her parents, ██████████ and ██████████. Appearing as witnesses for the Claimant were ██████████ and ██████████ with ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV Medicaid Provider Manual Chapter 513 – I/DD Waiver Services - §§513.9.1.8.1 and 513.9.1.10
- D-2 Service Authorization 2nd Level Negotiation Request dated January 6, 2015
- D-3 Notice of Denial dated January 9, 2015
- D-4 Inventory for Client and Agency Planning dated October 14, 2014
- D-5 Purchase Request Details for Budget Year January 2015 – December 2015

Claimant's Exhibits:

- C-1 Fact Sheet
- C-2(a) Purchase Request Details for Budget Year January 2013 – December 2013
- C-2(b) Purchase Request Details for Budget Year January 2014 – December 2014
- C-3 Purchase Request Details for Budget Year January 2015 – December 2015
- C-4 Estimated Cost for 24-Hour Care
- C-5 WV Medicaid Provider Manual §513.9.1.10
- C-6 WV Medicaid Provider Manual §513.9.8
- C-7 WV Medicaid Provider Manual §513.1
- C-8 Claimant's Daily Schedule
- C-9 WV Medicaid Provider Manual §513.8

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) A request (D-2) for additional units of Person Centered Support-Agency and Respite services under the I/DD Waiver program was submitted for the Claimant on January 6, 2015. The Department issued a Notice of Denial (D-3) on January 9, 2015, advising the Claimant that the request for additional units had been denied.
- 2) The Department's representative, [REDACTED] with APS Healthcare, noted that of the 13,642 units of Person Centered Support-Agency that was requested, 8,819 units were approved. Ms. [REDACTED] stated that the total amount of Person Centered Support-Agency units requested and the Respite services could not be approved as it would put the Claimant over her annual assigned budget amount (D-5).
- 3) Ms. [REDACTED] referred to the Claimant's Inventory for Client and Agency Planning (ICAP) (D-4) service level scores for 2014 and 2013. The Claimant was assessed at a service level 3 for the current year, which is an improvement from the previous year's assessed service level 2. Without a documented need for the additional service units, the requested amount of Person Centered Support-Agency and Respite units could not be justified. Although the Claimant had been allowed to exceed her annual budget previously, Ms. [REDACTED] testified that due to budgetary restraints, all participants of the I/DD Waiver program must stay within their respective budget amounts, unless there is a change in the individual's assessed needs.
- 4) The Claimant's representatives argued that the Department is decreasing the Claimant's services by \$35,000 when there has been no change in policy. The Claimant has received the same amount of services for the past three (3) years, and although her assessed needs may have changed slightly, the decrease in services does not reflect the Claimant's

individualized needs. The Claimant's mother testified that she and the Claimant's father have health issues that do not allow them to provide the same amount of care as in previous years. The Claimant requires constant supervision and extensive care, and the representatives for the Claimant contended that by allowing the Claimant to exceed her annual budget amount to continue receiving the same amount of services is more cost effective (C-4) than if the Claimant was in an institutional setting.

APPLICABLE POLICY

WV Medicaid Provider I/DD Waiver Services Manual §§513.9.1.8.1 and 513.9.1.10 state that the amount of service is limited by the member's individualized budget. The budget allocation may be adjusted only if changes have occurred regarding the member's assessed needs.

DISCUSSION

The clinical documentation presented failed to support a need for additional Person Centered Support-Agency and Respite services. The Claimant's service level score increased from the previous year's score, and without a documented change in the Claimant's assessed needs, her individualized budget cannot be exceeded with the approval of the requested units.

CONCLUSIONS OF LAW

Whereas the information submitted failed to support a change in the Claimant's assessed needs, the requested units of Person Centered Support-Agency and Respite services could not be approved.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny the requested amount of Person Centered Support-Agency and Respite services under the I/DD Waiver program.

ENTERED this 1st day of April 2015

Kristi Logan
State Hearing Officer