



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

June 9, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1302

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Taniua Hardy, Department Representative

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1302

**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 June 2, 2015, on an appeal filed February 12, 2015.

The matter before the Hearing Officer arises from the February 6, 2015 decision by the Respondent to deny or reduce the Claimant's services through the Intellectual Disabilities and Developmental Disabilities (I/DD) Waiver Program.

At the hearing, the Respondent appeared by ██████████, ██████████ and Taniua Hardy. The Claimant was represented by his mother and guardian, ██████████. Appearing as witnesses for the Claimant were ██████████ and ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of decision, dated February 6, 2015 (amended notice dated March 10, 2015)
- D-2 Bureau for Medical Services Provider Manual, Chapter 513: I/DD Waiver Services
- D-3 Service Authorization second-level Request form, dated January 27, 2015
- D-4 Screen print from the Respondent's data system detailing the Claimant's itemized budget for the budget year beginning February 1, 2015

Claimant's Exhibits:

- C-1 Screen print from the Respondent's data system detailing the Claimant's itemized budget for the budget year beginning February 1, 2014

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 Claimant is a recipient of the I/DD Waiver Program.
- 2) The Claimant submitted a second-level negotiation request for services through the I/DD Waiver Program on January 27, 2015 (Exhibit D-3). The specific services requested were 500 units for “Service Coordination” and 454 units for a “Therapeutic Consultant.”
- 3) The Respondent notified the Claimant of its decision to deny this request, offering the reason for denial as the “...assessed annual budget would have been exceeded or has been exceeded...” (Exhibit D-1)
- 4) The Respondent’s notification to the Claimant indicated 150 units for “Service Coordination” and 188 units for a “Therapeutic Consultant” were approvable (Exhibit D-1).
- 5) The full amount of units requested (Exhibit D-3) would result in the Claimant exceeding his assigned budget for the year starting February 1, 2015, and the approvable units are the maximum amounts that can be purchased within the confines of the Claimant’s assigned budget (Exhibit D-4).

APPLICABLE POLICY

The policy regarding prior authorization of units of service through the I/DD Waiver Program is located in the Bureau for Medical Services Provider Manual, Chapter 513: I/DD Waiver Services. At §513.9.1.11 (for Service Coordination) and §513.9.1.15 (for Therapeutic Consultant) the policy reads, “The amount of service is limited by the member’s individualized budget.”

DISCUSSION

Policy for the I/DD Waiver Program requires services to an approved individual be limited by that individual’s budget. The Claimant did not appeal the assigned budget itself, but rather the denial – or, rather, the reduction from the previous year’s levels – of services within the confines of that budget.

The Respondent is correct to deny the Claimant’s request for services that would exceed the Claimant’s assigned budget.

CONCLUSION OF LAW

Because the Claimant's request for services through the I/DD Waiver Program would cause him to exceed his assigned budget, the Respondent must deny the Claimant's request.

DECISION

It is the decision of the State Hearing Officer to **uphold** Respondent's denial of Claimant's request for second-level services through the I/DD Waiver Program.

ENTERED this ____ Day of June 2015.

Todd Thornton
State Hearing Officer