



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 12, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1570

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: Appellant'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**

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-1570**

**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 3, 2015, on an appeal filed March 16, 2015.

The matter before the Hearing Officer arises from the February 27, 2015 decision by the Respondent to deny or reduce the Appellant's services through the Intellectual Disabilities and Developmental Disabilities (I/DD) Waiver Program.

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

**Department's Exhibits:**

- D-1 Notice of decision, dated February 27, 2015
- D-2 Bureau for Medical Services Provider Manual, Chapter 513: I/DD Waiver Services, §513.9.1.6; §513.9.2.3.2; §513.9.1.10.1
- D-3 Service Authorization second-level Request form, dated February 10, 2015; Supporting documentation
- D-4 Screen print from the Respondent's data system detailing the Appellant's itemized budget for the budget year beginning March 1, 2015

**Appellant's Exhibits:**

- A-1 Notes and correspondence regarding the Appellant's need for I/DD services

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 participant in the I/DD Waiver Program.
- 2) The Appellant submitted a second-level negotiation request for services through the I/DD Waiver Program on February 10, 2015 (Exhibit D-3). The specific services requested were 5,016 units of Facility-Based Day Habilitation; 11,720 units of Person-Centered Support – Personal Options (“PCS-PO”); Respite – Agency through one provider in the amount of 1,040 units; and, Respite – Agency through a second provider in the amount of 836 units.
- 3) The Respondent notified the Appellant of its decision to deny the full amount of requested service units, 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 Appellant indicated 3,259 units of Facility-Based Day Habilitation were approvable (Exhibit D-1). The service units in all other categories were denied in full.
- 5) The full amount of units requested would result in the Appellant exceeding her assigned budget for the year starting March 1, 2015, and the approvable units represent the maximum amount of Facility-Based Day Habilitation units that can be purchased within the confines of the Appellant’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 §513.9.1.6 and §513.9.1.10.1, this policy reads, “The amount of service is limited by the member’s individualized budget.” At §513.9.2.3.2, the policy reads, “The amount of service is limited by the member’s individualized participant-directed budget and spending plan.

### **DISCUSSION**

Policy for the I/DD Waiver Program requires services to an approved individual be limited by that individual’s budget. The full amount of Facility-Based Day Habilitation services requested by the Appellant would cause her to exceed her assigned budget, and the amount deemed approvable by the Respondent is the maximum (in that category) that would keep the Appellant

under budget. The Respondent is correct to deny the Appellant's request for services that would exceed the Appellant's assigned budget.

### **CONCLUSION OF LAW**

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

### **DECISION**

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

**ENTERED this \_\_\_\_ Day of June 2015.**

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**Todd Thornton**  
**State Hearing Officer**