



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

August 6, 2015



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2352

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: Appellant'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**

██████████,

**Appellant,**

**v.**

**Action Number: 15-BOR-2352**

**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 August 5, 2015, on an appeal filed June 23, 2015.

The matter before the Hearing Officer arises from the June 9, 2015, decision by the Respondent to deny the requested units of Person Centered Support-Agency services.

At the hearing, the Respondent appeared by ██████████, APS Healthcare. Appearing as a witness for the Respondent was Taniua Hardy, Bureau for Medical Services. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████, Service Coordinator with ██████████ ██████████, Clinical Director with ██████████ and ██████████, RN with ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Denial dated June 9, 2015
- D-2 West Virginia Medicaid Provider Manual §513.9.1.8.1
- D-3 Service Authorization 2<sup>nd</sup> Level Negotiation Request dated May 22, 2015
- D-4 APS CareConnection Purchase Request Details for June 2015-May 2016

**Appellant's Exhibits:**

- A-1 Correspondence from ██████████, D.O. dated June 17, 2015
- A-2 Correspondence from ██████████, M.D. dated June 17, 2015
- A-3 Correspondence from ██████████, M.D. dated June 10, 2015

- A-4 Correspondence from [REDACTED], Therapeutic Consultant dated July 23, 2015
- A-5 Inventory for Client and Agency Planning dated March 12, 2014 and March 4, 2015
- A-6 Adaptive Behavior Assessment System Report dated March 12, 2014 and March 4, 2015
- A-7 Correspondence from [REDACTED], RN dated July 22, 2015
- A-8 LPN Progress Notes dated July 15, 2015

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-3) for 35,040 units of Person Centered Support-Agency (PCS-A) services under the I/DD Waiver program was submitted on behalf of the Appellant on May 22, 2015.
- 2) The Department issued a Notice (D-1) on June 9, 2015, advising that of the 35,040 units of PCS-A that were requested, only 32,494 units were approved.
- 3) The Appellant's individualized budget (D-4) for service year June 2015 – April 2016 is \$208,044.02. The approval of the total amount of PCS-A units requested would cause the Appellant to exceed her budget by \$12,752.64.
- 4) The Appellant's individualized budget for service year June 2014 – May 2015 was \$203,377.09. The Appellant was \$27,867.23 over budget for this service year.

### **APPLICABLE POLICY**

WV Medicaid Provider Manual §513.9.1.8.1 states that the amount of Person Centered Support services 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**

Witnesses for the Appellant contended that the Appellant requires twenty-four (24) hours a day care. There is no informal support available for the Appellant. The Appellant has experienced a decline in her ability to ambulate and requires assistance in transferring. The Appellant has a history of falling and experiences seizures.

The Appellant's witnesses did not dispute the annual assessment that was completed with the Appellant, but purported she has been allowed to exceed her individualized budget in previous years.

The Department argued that the Appellant's individualized budget currently allows for her to be supervised 24 hours a day, and if the Appellant's Licensed Practical Nursing (LPN) units were reduced, then the entire amount of PCS-A could be approved.

Due to budgetary constraints on the program, the Department no longer can approve services that exceed an individual's budget.

### **CONCLUSIONS OF LAW**

The services under the I/DD Waiver program are limited to the individualized budget that is determined yearly by a member's functional assessment. The Appellant's budget amount from the previous year was increased based on this assessment. However, the approval of the total amount of Person Centered Support-Agency units for the Appellant would cause her to exceed her allocated budget amount, therefore only a portion of the services could 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 services under the I/DD Waiver program.

**ENTERED this 6<sup>th</sup> day of August 2015**

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**Kristi Logan**  
**State Hearing Officer**