



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

September 15, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2494

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  
[REDACTED]

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

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-2494**

**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 September 10, 2015, on an appeal filed July 7, 2015.

The matter before the Hearing Officer arises from the June 25, 2015, decision by the Respondent to deny the requested units of Licensed Practical Nursing for the Appellant under the I/DD Waiver program.

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 ██████████, Nursing Supervisor with ██████████, Therapeutic Consultant with ██████████, Director of ██████████ and ██████████ Service Coordinator with ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Denial dated June 25, 2015
- D-2 West Virginia Medicaid Provider Manual §513.9.1.12.1
- D-3 Service Authorization 2<sup>nd</sup> Level Negotiation Request dated May 26, 2015
- D-4 APS CareConnection Purchase Request Details Screen Print for Service Year March 2015-February 2016

### **Appellant's Exhibits:**

- A-1 Medical Records from [REDACTED] dated September 27, 2012 and February 21, 2012
- A-2 Medical Records from [REDACTED] dated September 4, 2010
- A-3 Medical Records from [REDACTED] dated December 2, 2011
- A-4 Medical Records from [REDACTED] from January 2011-August 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) A 2<sup>nd</sup> Level Negotiation request (D-3) for 1,500 units of Licensed Practical Nursing (LPN) under the I/DD Waiver program was submitted on behalf of the Appellant on May 26, 2015.
- 2) The Department issued a Notice (D-1) on June 25, 2015, advising that of the 1,500 units of LPN that were requested, only 200 units were approved.
- 3) The Appellant's individualized budget for service year March 2015-February 2016 is \$48,921.75. The approval of the total amount of requested LPN units would cause the Appellant to exceed her budget.

### **APPLICABLE POLICY**

West Virginia Medicaid Provider Manual §513.9.1.12.1 states that the amount of Licensed Practical Nursing 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**

The Appellant's witnesses contended that the Appellant needs the requested amount of LPN services to assist the Appellant with her medication administration. The Appellant has a history of forgetting to take her medications and overdosing her medications. Due to the Appellant's diagnosis, she has difficulty with memory and requires the additional LPN units to monitor her medications to ensure her safety. The Appellant's husband is physically unable to assist her and she has no other informal support in the area.

The Department's representative suggested that Person Centered Support-Agency units could be reduced to allow for the additional LPN units, or that the Appellant could change to LPN-Personal Options, which is a less expensive option for the LPN services.

### **CONCLUSIONS OF LAW**

The services under the I/DD Waiver program are limited to the individualized budget that is determined yearly by the member's functional assessment. The approval of the total amount of Licensed Practical Nursing units for the Appellant would cause her to exceed her allocated budget amount, and 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 Licensed Practical Nursing units for the Appellant under the I/DD Waiver program.

**ENTERED this 15<sup>th</sup> day of September 2015**

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