

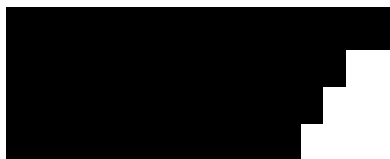


STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

September 17, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2651

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-2651

**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 16, 2015, on an appeal filed July 27, 2015.

The matter before the Hearing Officer arises from the July 19, 2015, decision by the Respondent to deny the requested units of Person Centered Support-Family and Respite 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 ██████████, Adult Protective Service Worker; ██████████, Service Coordinator with ██████████; ██████████, Habilitation Specialist and ██████████, Specialized Family Care Provider. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Denial dated July 19, 2015
- D-2 West Virginia Medicaid Provider Manual §513.9.1.8.2
- D-3 West Virginia Medicaid Provider Manual §513.9.1.10
- D-4 Service Authorization 2nd Level Negotiation Request dated June 25, 2015
- D-5 APS CareConnection Purchase Request Details Screen Print for Service Year July 2015-June 2016

Appellant's Exhibits:

A-1 Individualized Program Plan dated June 9, 2015

A-2 Extraordinary Care Needs Assessment dated April 10, 2014

A-3 Inventory for Client and Agency Planning dated April 10, 2014 and April 9, 2015

A-4 Adaptive Behavior Assessment System Report dated April 10, 2014 and April 9, 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 2nd Level Negotiation request (D-4) for 7,488 units of Person Centered Support-Family (PCS-F) and 4,784 units of Respite under the I/DD Waiver program was submitted on behalf of the Appellant on June 25, 2015.
- 2) The Department issued a Notice (D-1) on July 19, 2015, advising that of the 7,488 units of PCS-F that were requested, only 5,616 units were approved. The Department did not approve any of the requested units of Respite.
- 3) The Appellant's individualized budget (D-5) for service year July 2015-June 2016 is \$66,037.33. The approval of the total amount of requested PCS-F and Respite units would cause the Appellant to exceed his budget by \$29,097.12.

APPLICABLE POLICY

West Virginia Medicaid Provider Manual §§513.9.1.8.2 and 513.9.1.10 state that the amount of Person Centered Support-Family and Respite services are 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 his budget does not allow for all the services required to meet his needs. The same amount of services that the Appellant received the previous year is the amount that was requested this year as there have been no changes in his assessed needs. The Appellant resides in a specialized family care home, and with the reduced services this placement may be compromised. The Respite services were requested to give the Appellant's specialized family care provider a break from providing his care.

The Department contended that the Appellant's budget was increased from the previous year, however, services can no longer be approved in excess of the individualized budget. The Appellant receives Person Centered Support-Agency services of 5.6 hours daily, at which time his provider receives a break from his care.

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 Person Centered Support-Family and Respite units for the Appellant would cause him to exceed his allocated budget amount, therefore, only a portion of the requested 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-Family and Respite units for the Appellant under the I/DD Waiver program.

ENTERED this 17th day of September 2015

**Kristi Logan
State Hearing Officer**