



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
203 East Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

January 25, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-3779

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,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

cc: Teresa McDonough, WV Bureau for Medical Services

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

██████████,

**Appellant,**

**v.**

**Action Number: 15-BOR-3779**

**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 January 21, 2016, on an appeal filed November 25, 2015.

The matter before the Hearing Officer arises from the October 16, 2015, decision by the Respondent to deny the Appellant additional Personal Care Services: Family units in the Title XIX Intellectual/Developmental Disabilities (I/DD) Waiver Services Program.

At the hearing, the Respondent appeared by ██████████ of APS Healthcare. Appearing as a witness for the Department was Taniua Hardy of the WV Bureau for Medical Services. The Appellant appeared by his mother ██████████. Appearing as a witness for the Appellant was his sister ██████████. All participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Second Level Negotiation Request – Notice of Denial dated October 16, 2015
- D-2 WV Medicaid Provider Manual Chapter 513 – I/DD Waiver Services – §513.9.1.8.2
- D-3 Service Authorization Second Level Negotiation Request, dated September 22, 2015
- D-4 I/DD Waiver Services Purchase Request Details for Budget Year October 1, 2015 to September 30, 2016

**Appellant's Exhibits:**

None

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 Title XIX I/DD Waiver Services Program.
- 2) The Appellant's Service Coordinator from [REDACTED] submitted a second-level negotiation request (Exhibit D-3) for 5,840 Person-Centered Support: Family units for the budget year of October 1, 2015 through September 30, 2016. A "unit" equals 15 minutes of service time.
- 3) According to the I/DD Purchase Request Details (Exhibit D-4), the Appellant's budget amount for the current year is \$71,452.88. The requested additional units, if approved, would exceed the Appellant's yearly budget by \$5,474.52.
- 4) The Department denied the request, issuing a Notice of Denial for the additional units (Exhibit D-1) on October 16, 2015. The Notice of Denial indicated the Appellant was approved for 3842 Person-Centered Support: Family units.
- 5) The Appellant's representative, his mother, requested a fair hearing to protest the denial of the request for additional Person-Centered Support: Family units.

### **APPLICABLE POLICY**

WV Medicaid Provider Manual Chapter 513, §513.9.1.8.2 reads as follows in pertinent part regarding Person-Centered Support: Family units.

#### **Person-Centered Support: Family: Traditional Option**

##### **Prior Authorization:**

All units of service must be prior authorized before [sic] being provided. Prior authorizations are based on assessed need and services must be within the member's individualized budget.

##### **Definition of Service:**

Person-Centered Support (PCS): Family is provided by awake and alert staff and consists of individually tailored training and/or support activities that enable the member to live and inclusively participate in the community in which the member resides, works, receives his/her education, accesses health care, and engages in social and recreational activities. The activities and environments are designed to increase the

acquisition of skills and appropriate behavior that are necessary for the member to have greater independence and personal choice, and allow for maximum inclusion into his/her community.

**Limitations/Caps:**

- The amount of service is limited by the member's individualized budget.
- The annual budget allocation may be adjusted (increased or decreased) only if changes have occurred regarding the member's assessed needs.
- PCS: Family may not substitute for federally mandated educational services.

**DISCUSSION**

I/DD policy limits the amount of Person-Centered Support: Family units available to a program participant. The Appellant was approved for 3842 Person-Centered Support: Family units for the current budget year which began in October 2015.

The Department's representative testified that according to the I/DD Waiver Services Purchase Request Details (Exhibit D-4), the Appellant's assigned budget for the current budget year is \$71,482.88. He stated that if the Department were to approve the full amount of the requested Person-Centered Support: Family units, the Appellant would be \$5,474.52 over budget. He added that according to policy, all services must be within the member's individualized budget.

The Appellant's witness, his sister, stated that the number of Person-Centered Support: Family units requested was the same as last year's budget. She stated that this amount was the Appellant's level of need for this category of support. She stated that his level of need has not lessened and may have increased since last year. She added that the Appellant requires total care, and this care is harder to provide since his mother is getting older and he is becoming heavier and harder to move into chairs, the bathtub and other areas.

The Department's witness testified that in previous years, the Department was able to approve service category increases above an individual's yearly budget. However, she stated, the Federal government now requires the state to keep expenditures within an individual's budget in the I/DD program. For this reason, she stated, the Department could not approve all of the Person-Centered Support: Family units requested by the Appellant's caregivers. She stated that it was possible to adjust the Appellant's yearly budget in order to provide more of these units; by reducing units or expenditures in other areas of the Appellant's yearly budget, it may be possible to increase the number of Person-Centered Support: Family units.

**CONCLUSIONS OF LAW**

The Appellant's request for additional Respite: Agency and Person-Centered Support: Family units exceeded his yearly budgeted amount. The Department acted correctly to deny the additional units, pursuant to the WV Medicaid Provider Manual, Chapter 513, §513.9.1.8.2.

## **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's denial of additional Person-Centered Support: Family units for the Appellant in the Title XIX I/DD Waiver program.

**ENTERED this 25<sup>th</sup> day of January 2016**

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**Stephen M. Baisden**  
**State Hearing Officer**