



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1027 N. Randolph Ave.
Elkins, WV 26241**

**Earl Ray Tomblin
Governor**

**Karen L. Bowling
Cabinet Secretary**

August 30, 2016



RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-2346

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Taniua Hardy, BMS, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2346

**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 25, 2016, on an appeal filed July 26, 2016.

The matter before the Hearing Officer arises from the June 22, 2016 decision by the Respondent to deny the Appellant's benefits under the ICF/IID Medicaid Program.

At the hearing, the Respondent appeared by ██████████, Long-Term Care Clinical Consultant, ██████████/Bureau for Medical Services. The Appellant was represented by ██████████, Adult Protective Service Worker, WVDHHR. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 ICF/IID Services Manual Chapter 511
- D-2 Notice of Decision dated June 22, 2016
- D-3 DD-2-A ICF/MR Level of Care Evaluation dated March 16, 2016
- D-4 Psychological Evaluation dated May 9, 2016
- D-5 Social Assessment/Personal Profile dated June 14, 2016

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) On June 22, 2016, the Appellant was notified (D-2) that he was denied prior approval for an Intermediate Care Facilities for Individuals With Intellectual Disabilities (ICF/IID) level of care because his condition does not meet the required medical criteria for the program.
 - 2) [REDACTED], Long-Term Care Clinical Consultant with [REDACTED]/Bureau for Medical Services, testified that approval was denied because documentation indicated that the Appellant's delays are primarily related to his mental health issues rather than an intellectual disability or related condition.
 - 3) Ms. [REDACTED] testified that the Appellant's Axis I diagnosis is listed as schizophrenia on Exhibit D-3 and his Axis II diagnosis is mild mental retardation. The Appellant's Psychological Evaluation (D-4) of May 9, 2016 shows an Axis I diagnosis of schizophrenia and an Axis II diagnosis of moderate intellectual disability. In that evaluation, the psychologist did not recommend placement in an ICF, but stated that the Appellant should continue in his current placement at [REDACTED] "until his treatment team deems him safe to return to a supervised community placement." The report states that the Appellant's prognosis "depends upon his ability to keep his mental illness and maladaptive behaviors under control."
 - 4) Exhibit D-5, a Social Assessment/Personal, states that the Appellant has a history of physical violence, a long history of non-compliance, and a history of psychiatric hospitalizations with physical/verbal aggression. He reportedly becomes paranoid when psychotic, has a history of hallucinations, and blames others due to paranoia and delusions. The social worker completing the profile indicated that an ICF/IID group home setting would be an appropriate setting for the Appellant due to the provision of 24-hour care.
 - 5) [REDACTED], Adult Protective Service Worker (APSW) for the Department, testified that the Appellant has been qualified for the ICF/IID Program in the past, and is only ready for discharge from [REDACTED] provided that he has 24-hour supervision. APSW [REDACTED] indicated that she has attempted to obtain a more recent statement concerning the Appellant's condition from the Appellant's treatment team.
- Ms. [REDACTED] indicated that documents submitted to the Department list schizophrenia as the Appellant's primary diagnosis, and that a psychologist indicated he should not be released from [REDACTED] until his treatment teams deems him safe. As there was no updated information, the Department could not approve ICF/IID services.

APPLICABLE POLICY

West Virginia Medicaid Regulations, Chapter 511.2.3 - An individual who applies for ICF/IID services must have an intellectual disability with concurrent substantial deficits manifested prior to the age of 22, or a related condition which constitutes a severe and chronic disability with concurrent substantial deficits manifested prior to age 22. Examples of related conditions, which may make an individual eligible for ICF/IID placement, include, but are not limited to, the following: autism, traumatic brain injury, cerebral palsy, spina bifida and any condition - other than mental illness – found to be closely related to intellectual disability.

DISCUSSION

In order to establish medical eligibility for participation in the ICF/IID Program, an individual must meet the diagnostic criteria. Policy specifically precludes mental illness as a qualifying condition for the program.

As the Appellant's primary diagnosis is schizophrenia - and a psychologist deemed him unsafe to be released from the mental health facility - the Department acted correctly in denying authorization for ICF/IID services.

CONCLUSIONS OF LAW

The Respondent's decision to deny the Appellant's benefits under the ICF/IID Medicaid Program is affirmed.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's action to deny the Appellant's benefits under the ICF/IID Program.

ENTERED this 30th Day of August 2016.

Pamela L. Hinzman
State Hearing Officer