



July 9, 2025

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 25-BOR-2037

Dear [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 Human Services. These same laws and regulations are used in all cases to ensure 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Connie Sankoff, Department Representative
[REDACTED] Appellant Representative

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

[REDACTED],

Appellant,

v.

Action Number: 25-BOR-2037

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES BUREAU FOR
MEDICAL SERVICES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the Office of Inspector General Common Chapters Manual. This fair hearing was convened on June 26, 2025, upon a timely appeal filed on May 2, 2025.

The matter before the Hearing Officer arises from the April 24, 2025 decision by the Respondent to terminate Personal Care Services (PCS).

At the hearing, the Respondent appeared by Connie Sankoff. Appearing as witnesses for the Respondent were Connie Sankoff and Braden Scheick. The Appellant was self-represented and testified on her behalf. Appearing as witnesses for the Appellant were [REDACTED] the Appellant's daughter, and [REDACTED]. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing request form
- D-2 Scheduling order
- D-3 Notice of decision, dated April 24, 2025
- D-4 Policy excerpt from BMS Provider Manual, Chapter 517

D-5 Pre-Admission Screening (PAS) form
Date of Assessment: April 24, 2025

D-6 PAS Summary form, dated April 24, 2025

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 was a recipient of Personal Care Services (PCS).
- 2) The Appellant, her daughter [REDACTED] and Braden Scheick, RN, the Respondent's assessing nurse, participated in an assessment to redetermine the Appellant's medical eligibility for PCS on April 24, 2025. (Exhibit D-5)
- 3) Mr. Scheick recorded his findings from this assessment on a Pre-Admission Screening (PAS) form. (Exhibit D-5)
- 4) The medical eligibility findings from the Appellant's April 2025 assessment were summarized on a PAS Summary form. (Exhibit D-6)
- 5) The Appellant established deficits in two (2) areas: grooming and the ability to vacate a building. (Exhibit D-6)
- 6) The Respondent mailed the Appellant a notice (Exhibit D-3), dated April 24, 2025, advising the Appellant had been "...determined medically ineligible for Personal Care services, which results in the denial of your Personal Care services..."
- 7) This notice (Exhibit D-3) further provides the basis for PCS termination as the failure to meet the policy requirement for "...deficits in at least three (3) of 13 critical areas..." and provided the two (2) deficits established: grooming and vacating a building.
- 8) The Appellant contested the Respondent's deficit findings in four (4) areas: bathing, transferring, walking, and continence.
- 9) The PAS notes (Exhibit D-5) regarding the Appellant's level of functioning in the area of bathing indicate the Appellant "...reports taking a shower...reports ability to transfer in and out of shower/tub...denied the need to have [physical assistance] with

bathing...reported the ability to bathe: All applicable areas. Demonstrated [sic] bring foot up to opposite knee..."

- 10) Regarding the Appellant's level of functioning in the area of continence, the PAS notes (Exhibit D-5) read "Applicant denied incontinence of bladder at this time...Applicant denied incontinence of bowel at this time...does not use incontinent supplies daily at this time..."
- 11) The PAS notes regarding the Appellant's level of functioning in the area of transferring (Exhibit D-5) read, in pertinent part, "Applicant reported/observed the ability to transfer without hands on assistance at this time from the bed, toilet, and furniture used inside the home."
- 12) The PAS notes regarding the Appellant's level of functioning in the area of walking (Exhibit D-5) read, in pertinent part, "Applicant reported/observed the ability to walk without hands on assistance at this time. Applicant reports use of walls and furniture to aide [sic] in task. No significant Fall history Reported [sic]"
- 13) The PAS overall comments (Exhibit D-5) regarding the Appellant's assessment read, in pertinent part, "Explained that the purpose of today's visit was to determine medical eligibility and potential level of care for the Personal Care Program. Instructed all present to ask questions at any time. Instructed that some question [sic] may be embarrassing, but necessary, and encouraged their honesty."
- 14) The PAS overall comments (Exhibit D-5) additionally read, "Reviewed PAS upon completion. All present verbalized agreement with reviewed PAS."
- 15) The Appellant does not require physical assistance with bathing.
- 16) The Appellant is not incontinent of bladder or bowel.
- 17) The Appellant does not require one-person assistance or greater in the areas of walking or transferring.

APPLICABLE POLICY

The Bureau for Medical Services (BMS) Provider Manual §517.13.5 Medical Criteria, states,

An individual must have three deficits as described on the PAS Form to qualify medically for the Personal Care Program. These deficits are derived from a combination of the following assessment elements on the PAS. The UMC RN will use Center for Disease Control (CDC) guidelines for age-appropriate developmental milestones as criteria when determining functional levels and abilities for children.

Section	Observed Level	
#26	Functional abilities of individual in the home	
a.	Eating	Level 2 or higher (physical assistance to get nourishment, not preparation)
b.	Bathing	Level 2 or higher (physical assistance or more)
c.	Dressing	Level 2 or higher (physical assistance or more)
d.	Grooming	Level 2 or higher (physical assistance or more)
e.	Continence, Bowel	Level 3 or higher (must be incontinent)
f.	Continence, Bladder	
g.	Orientation	Level 3 or higher (totally disoriented, comatose).
h.	Transferring	Level 3 or higher (one-person or two-person assistance in the home)
i.	Walking	Level 3 or higher (one-person assistance in the home)
j.	Wheeling	Level 3 or higher (must be Level 3 or 4 on walking in the home to use Level 3 or 4 for wheeling in the home. Do not count outside the home.)

An individual may also qualify for PC services if he/she has two functional deficits identified as listed above (items refer to PAS) and any one or more of the following conditions indicated on the PAS:

Section	Observed Level
#24	Decubitus; Stage 3 or 4
#25	In the event of an emergency, the individual is Mentally unable or Physically unable to vacate a building. Independently or With Supervision are not considered deficits.
#27	Individual has skilled needs in one or more of these areas: (g) suctioning, (h) tracheostomy, (i) ventilator, (k) parenteral fluids, (l) sterile dressings, or (m) irrigations.
#28	Individual is not capable of administering his/her own medications.

DISCUSSION

The Appellant requested a hearing to appeal the decision of the Respondent to terminate her Personal Care Services (PCS) due to medical eligibility findings. The Respondent must show, by preponderance of the evidence, that it correctly terminated PCS on this basis.

The Appellant was receiving PCS and the Respondent conducted a review of her medical eligibility to continue receiving PCS. The Respondent's assessing nurse, Braden Scheick, RN, the Appellant, and her daughter were present for this assessment. Mr. Scheick reported to the Appellant and her daughter the importance of answering all questions honestly, even questions which may be embarrassing. Mr. Scheick reviewed the PAS findings at the conclusion of the assessment, and reported "verbalized agreement" with all individuals present.

This assessment, the Pre-Admission Screening (PAS) form (Exhibit D-5), and its summary form (Exhibit D-6) reveal two (2) deficits in medical eligibility areas set by policy. Program policy requires at least (3) deficits to receive PCS, and the Respondent issued a notice explaining that the policy requirement was not met and the Appellant's PCS would be terminated. The Appellant and her witnesses proposed deficits in, or testified regarding, four (4) additional areas: transferring, walking, bathing, and continence of bladder or bowel.

The Appellant testified she has problems with continence, and said she has ‘bad days’ with episodes of incontinence. The Appellant’s daughter testified she visits the Appellant three or four times per week and reported the Appellant has problems with continence. It was unclear if the Appellant’s daughter was reporting her observations or what the Appellant told her. The Appellant and her witnesses explained failure to report at the time of the PAS was due to her embarrassment. During the hearing, the Appellant reported continence issues before more individuals than during the April 2025 assessment. At the assessment, the Appellant and her daughter were instructed to report truthfully even for embarrassing questions. The Respondent’s nurse documented the denial of continence issues of bladder or bowel at the time and noted no incontinence supplies were in use. The Respondent correctly assessed the Appellant in the area of continence.

[REDACTED], testified on behalf of the Appellant. Some of [REDACTED] testimony was hearsay, but she did indicate she visited the Appellant on the day before the hearing, June 25, 2025, and observed the Appellant bathing. [REDACTED] concluded the Appellant needs assistance with bathing. [REDACTED] conclusion is not given the same weight as the assessment conducted by the Respondent’s nurse because it was two months after the Respondent’s determination. The Appellant’s daughter additionally mentioned “bathing issues,” but did not explain why this was not mentioned during the April 2025 assessment or the PAS review. The Respondent correctly assessed the Appellant in the area of bathing.

The Appellant’s daughter mentioned the Appellant has “issues” with mobility and “getting out of bed,” but there was no further testimony or evidence to support this. The Appellant’s daughter reported the Appellant falls, but this is contradicted by a report of no significant falls history from the April 2025 PAS notes. [REDACTED] noted she observed the Appellant walk independently. No evidence or testimony supported the notion that the Appellant requires a minimum of one-person physical assistance with walking or transferring. The Respondent correctly assessed the Appellant in these areas.

Based on the reliable evidence and testimony provided at the hearing, the Respondent correctly determined the Appellant did not meet the medical eligibility requirements for PCS and correctly terminated the Appellant’s PCS on that basis.

CONCLUSIONS OF LAW

- 1) Because the Appellant only met two (2) of the three (3) medical eligibility criteria required by PCS policy, the Appellant is not eligible for PCS.
- 2) Because the Appellant is not eligible for PCS, the Respondent must terminate the Appellant’s PCS.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to terminate the Appellant's PCS due to unmet medical eligibility requirements.

ENTERED this ____ day of July 2025.

Todd Thornton
State Hearing Officer