



August 6, 2025



RE: [REDACTED] v. WV DoHS/BMS
ACTION NO.: 25-BOR-2388

Dear Mr. [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,

Tara B. Thompson, MLS
Certified State Hearing Officer
Member, State Board of Review

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

cc: Terry McGee, II, Bureau for Medical Services
Kesha Walton, Bureau for Medical Services

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

██████████,

Appellant,

v.

Action Number: 25-BOR-2388

**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 ██████████. 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 August 6, 2025.

The matter before the Hearing Officer arises from the Respondent's June 26, 2025 decision to deny the Appellant's medical eligibility for Medicaid Long-Term Care admission.

At the hearing, the Respondent appeared by Terry McGee, Bureau for Medical Services. Appearing as a witness for the Respondent was Melissa Grega, RN, Acentra. The Appellant appeared and was self-represented. Appearing as a witness for the Appellant was ██████████, Facility Admissions Director. Everyone present was placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Exhibit List
Notice, dated July 23, 2025
- D-2 Bureau for Medical Services (BMS) Manual Chapter 514 excerpts
- D-3 Pre-Admission Screening form, dated June 17, 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) On June 26, 2025, the Respondent issued a notice to the Appellant advising his request for Long-Term Care admission has been denied because the Pre-Admission Screening (PAS) form did not identify 5 deficit areas that met severity criteria (Exhibit D-1).
- 2) The June 26, 2025 notice revealed one (1) qualifying severe deficit in *medication administration* (Exhibit D-1).
- 3) On June 17, 2025, [REDACTED], MD (hereafter Dr. [REDACTED]), a physician for Mound View Health Care, completed a PAS form with the Appellant (Exhibit D-3).
- 4) Mound View Health Care is also known as [REMOVED] Healthcare Center (hereafter, the Facility) (Exhibit D-3).
- 5) At the time of the PAS, the Appellant was able to vacate the building with supervision in an emergency (Exhibit D-3).
- 6) At the time of the PAS, the Appellant did not have a decubitus (Exhibit D-3).
- 7) At the time of the PAS, the Appellant was capable of *eating, bathing, dressing, and grooming* independently or with prompting (Exhibit D-3).
- 8) At the time of the PAS, the Appellant was continent of bladder and bowel (Exhibit D-3).
- 9) At the time of the PAS, the Appellant was oriented (Exhibit D-3).
- 10) At the time of the PAS, the Appellant was able to transfer independently (Exhibit D-3).
- 11) At the time of the PAS, the Appellant was able to walk with supervision or an assisted device (Exhibit D-3).
- 12) At the time of the PAS, the Appellant did not use a wheelchair (Exhibit D-3).
- 13) At the time of the PAS, the Appellant did not have any professional or technical needs in the areas of *suctioning, tracheostomy, ventilator, parenteral fluids, sterile dressings, or irrigations* (Exhibit D-3).

APPLICABLE POLICY

Bureau for Medical Services (BMS) Manual § 514.5.2 *Pre-Admission Screening (PAS)* provides in relevant sections: The PAS (level 1) identifies the medical need for nursing facility services based on evaluation of identified deficits and screens for the possible presence of a major mental illness, mental retardation, and/or developmental disability.

Bureau for Medical Services (BMS) Manual § 514.5.3 *Medical Eligibility Regarding the PAS* provides in relevant sections: To medically qualify for the nursing facility Medicaid benefit, an individual must need direct nursing care 24 hours a day, seven days a week. The BMS has designated a tool, known as the PAS form, to be utilized for physician certification of the medical needs of individuals applying for Medicaid benefits. The PAS must be completed, signed, and dated by a physician.

To qualify for nursing facility Medicaid benefit, an individual must have a minimum of five deficits identified on the PAS. These deficits may be any of the following (numbers represent questions on the PAS form):

- #24: Decubitus – Stage 3 or 4
- #25: In the event of an emergency, the individual is mentally or physically unable to vacate a building. Independently and with supervision are not considered deficits.
- #26: Functional abilities of the individual in the home.
 - Eating: Level 2 or higher (physical assistance to get nourishment...)
 - Bathing: Level 2 or higher (physical assistance or more)
 - Grooming: Level 2 or higher (physical assistance or more)
 - Dressing: Level 2 or higher (physical assistance or more)
 - Continence: Level 3 or higher (must be incontinent)
 - Orientation: Level 3 or higher (totally disoriented, comatose)
 - Transfer: Level 3 or higher (one person or two person assist in the home)
 - Walking: Level 3 or higher (one person assistance in the home)
 - Wheeling: Level 3 or higher
- #27: Individual has skilled needs in one of these areas: suctioning, tracheostomy, ventilator, parenteral fluids, sterile dressings, or irrigations
- #28: Individual is not capable of administering his/her own medications

DISCUSSION

The Respondent denied the Appellant's medical eligibility for Medicaid Long-Term Care (LTC) benefits because the PAS did not identify the presence of severe deficits in five functioning areas. The Appellant did not dispute the results or validity of the PAS. During the hearing, the Appellant was primarily concerned about identifying a discharge location before being released from the Facility.

During the hearing, the Appellant was advised by his witness that the Facility had not yet initiated discharging the Appellant. During the hearing, it was explained to the Appellant that he could appeal any impending Facility discharge and he voiced understanding.

The Board of Review cannot judge the policy and can only determine if the Respondent followed the policy when deciding the Appellant's Medicaid LTC benefit eligibility. The submitted evidence indicated that the Appellant only presented with one severe functioning deficit at the time of the PAS. Because the Appellant did not have five (5) severe functioning deficits at the time of the PAS, the Respondent's decision to deny his eligibility must be affirmed.

CONCLUSIONS OF LAW

- 1) To be eligible for Medicaid LTC, the Appellant had to have five areas of care deficits that met severity criteria at the time of the PAS.
- 2) The preponderance of evidence revealed that the Appellant had one severe functioning deficit at the time of the PAS.
- 3) Because the Appellant did not have five areas of care deficits that met severity criteria at the time of the PAS, the Respondent correctly denied the Appellant's Medicaid LTC eligibility.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's June 26, 2025 decision to deny the Appellant's medical eligibility for the Medicaid Long-Term Care program.

ENTERED this 6th day of August 2025.

Tara B. Thompson, MLS
Certified State Hearing Officer