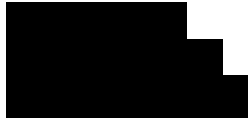




October 2, 2025



RE: [REDACTED] v. WVDoHS-BMS
ACTION NO.: 25-BOR-2851

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 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,

Eric L. Phillips
Certified State Hearing Officer
Member, State Board of Review

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

cc: BMS

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

██████████,

Appellant,

v.

Action Number: 25-BOR-2851

**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 October 1, 2025, on an appeal filed with the Board of Review on September 9, 2025.

The matter before the Hearing Officer arises from the August 28, 2025 decision by the Respondent to deny the Appellant's Long-Term Care (LTC) Medicaid admission.

At the hearing, the Respondent appeared by Terry McGee, II, Program Manager. Appearing as a witness for the Respondent was Melissa Grega, RN, Nurse Reviewer, Acentra. The Appellant was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Denial for Long-Term Care dated August 28, 2025
- D-2 Bureau of Medical Services Policy 514-Nursing Facility Services
- D-3 Pre-Admission Screening dated August 21, 2025
- D-4 ██████████ prescription list dated August 21, 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 is a resident at [REDACTED]
- 2) The Appellant's medical eligibility was assessed for LTC Medicaid assistance.
- 3) On April 21, 2025, the Pre-Admission Screening (PAS), a requirement to determine medical eligibility for LTC Medicaid assistance, was conducted by [REDACTED]
- 4) The PAS documented a functional deficit in grooming. (Exhibit D-3)
- 5) On August 28, 2025, a Notice of Denial (Exhibit D-1) was issued to the Appellant citing that her request for LTC Medicaid assistance was denied because she did not receive the minimum required deficits to meet the severity criteria.
- 6) The Appellant has a primary diagnosis of dementia. (Exhibit D-3)

APPLICABLE POLICY

The Bureau for Medical Services (BMS) Provider Manual, §514.6.3, states:

To qualify medically for the nursing facility Medicaid benefit, an individual must need direct nursing care 24 hours a day, 7 days a week. BMS has designed a tool known as the Pre-Admission Screening form (PAS) (see Appendix II) to be utilized for physician certification of the medical needs of individuals applying for the Medicaid benefit.

An individual must have a minimum of five deficits identified on the PAS. These deficits will be determined based on the review by BMS/designee in order to qualify for the Medicaid nursing facility benefit.

These deficits may be any of the following:

- #24: Decubitus – Stage 3 or 4
- #25: In the event of an emergency, the individual is c) mentally unable or d) physically unable to vacate a building. a) and b) are not considered deficits.
- #26: Functional abilities of individual in the home
Eating: Level 2 or higher (physical assistance to get nourishment, not preparation)

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 persons assist in the home)
Walking: Level 3 or higher (one person assist in the home)
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.

- #27: Individual has skilled needs in one [*sic*] 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

Medical eligibility for Long-Term Care Medicaid assistance is established when an individual requires direct nursing care twenty-four hours a day, seven days a week and has a minimum of five deficits identified on the PAS. The Appellant appealed the Respondent's decision to deny medical eligibility based on her failure to demonstrate the required deficits to meet the severity criteria. The Respondent must show by a preponderance of evidence that the Appellant did not meet the medical criteria in at least five areas of need.

On August 21, 2025, a PAS assessment was completed which documented that the Appellant met the criteria for a functional deficit in the area of grooming. The information submitted in the PAS assessment failed to document at least five areas of care needs that met the severity criteria. Because the Appellant failed to meet the severity criteria, the Respondent denied the Appellant's medical eligibility for LTC, effective August 28, 2025.

The Appellant disputes the findings of the PAS assessment indicating that it portrays her as a "76-year-old teenager". The Appellant related that she has experienced multiple falls at the facility and has difficulty with her balance. The Appellant contends that she should have been awarded additional deficits in the areas of bathing, dressing, incontinence, orientation, transferring, walking, wheeling and vacating during an emergency.

Bathing-The Appellant indicated that she has fallen multiple times while bathing at the facility. A deficit may be awarded in the contested area when the individual is assessed as requiring physical assistance to complete the activity. Based on the Appellant's testimony, there was no indication that she required physical assistance to aid in her ability to bathe; therefore, an additional deficit *cannot* be awarded in the contested area.

Dressing-The Appellant indicated that she could dress herself if she sits on the bed. The Appellant testified that she has fallen off the bed while dressing. A deficit may be awarded in the contested area when the individual is assessed as requiring physical assistance to complete the activity.

Based on the Appellant's testimony, there was no indication that she required physical assistance to aid in her ability to dress; therefore, an additional deficit **cannot** be awarded in the contested area.

Continence-the Appellant testified that she has experienced accidental incontinence during the night when she is unable to ambulate to the bathroom promptly. A deficit may be awarded in the contested area when the individual is incontinent. Based on the Appellant's testimony there was no indication to demonstrate that she was incontinent; therefore, an additional deficit **cannot** be awarded in the contested area.

Orientation-the Appellant indicated that she has balance issues as a result of neuropathy of her feet. A deficit may be awarded in the contested area when the individual is totally disoriented or comatose. Based on the Appellant's testimony there was no indication of a total disorientation; therefore, an additional deficit **cannot** be awarded in the contested area.

Transferring-the Appellant reported no issues with transferring but did indicate some balance issues. A deficit may be awarded in the contested area when the individual requires physical assistance to transfer. Based on the Appellant's testimony there was no indication that she required physical assistance to aid in her ability to transfer; therefore, an additional deficit **cannot** be awarded in the contested area.

Walking-the Appellant reported that she can walk in the facility, but her ability to ambulate is "not good". A deficit may be awarded in the contested area when the individual requires physical assistance in ambulation. Based on the Appellant's testimony, there was no indication that she required physical assistance to aid in her ambulation; therefore, an additional deficit **cannot** be awarded in the contested area.

Wheeling-the Appellant indicated that she could be in a wheelchair but she "didn't chose to be". A deficit may be awarded in the contested area when the individual requires physical assistance for wheeling. Based on the Appellant's testimony, there was no indication that she utilizes a wheelchair; therefore, an additional deficit **cannot** be awarded in the contested area.

Vacating During an Emergency-the Appellant testified that she "might" require physical assistance in her ability to vacate during an emergency. A deficit may be awarded in the contested area when the individual is mentally or physically unable to vacate a building during an emergency. Based on the Appellant's testimony, there was no indication that she required physical assistance in her ability to vacate; therefore, an additional deficit **cannot** be awarded in the contested area.

Whereas no additional deficits were identified for the Appellant as a result of the August 21, 2025, PAS assessment, the Appellant does not meet the medical eligibility criteria for Long-Term Care Medicaid assistance.

CONCLUSIONS OF LAW

- 1) An individual must have a minimum of five (5) deficits identified on the PAS to be determined medically eligible for the Long-Term Care Medicaid program.

- 2) The Appellant was awarded one deficit on the PAS assessment completed August 21, 2025.
- 3) Based on the evidence, no additional deficits were awarded in the functional areas.
- 4) The Appellant does not meet the medical eligibility requirements for Long-Term Care Medicaid assistance.

DECISION

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

ENTERED this _____ day of October 2025.

Eric L. Phillips
Certified State Hearing Officer