



November 20, 2025

[REDACTED]

RE: [REDACTED] v. WVDoHS-BMS
ACTION NO.: 25-BOR-3198

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,

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**

[REDACTED],

Appellant,

v.

Action Number: 25-BOR-3198

**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 November 20, 2025, on an appeal filed with the Board of Review on October 28, 2025.

The matter before the Hearing Officer arises from the October 14, 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-Bureau of Medical Services. 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 Admission dated October 14, 2025.
- D-2 Bureau of Medical Services Policy 514-Nursing Facility Services
- D-3 Pre-Admission Screening dated October 14, 2025
- D-4 [REDACTED] Center Medication List dated October 14, 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 resident at [REDACTED] Center.
- 2) The Appellant's medical eligibility was assessed for LTC Medicaid assistance.
- 3) On October 14, 2025, the Pre-Admission Screening (PAS), a requirement to determine medical eligibility for LTC Medicaid assistance, was conducted by [REDACTED] (Exhibit D-3)
- 4) The PAS documented a functional deficit in the areas of grooming, walking and wheeling. (Exhibit D-3)
- 5) On October 14, 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.

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 October 14, 2025, a PAS assessment was completed which documented that the Appellant met the criteria for a functional deficit in the areas of grooming, walking and wheeling. 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 October 14, 2025.

The Appellant contends that additional deficits should be awarded in the areas of vacating during an emergency, transferring, dressing, and skilled needs.

Vacating during an emergency-Based on the information derived from the PAS assessment, the Appellant was assessed as requiring supervision to vacate in an emergency. To receive a deficit in the contested area, an individual must be physically or mentally unable to vacate in an emergency. The Appellant testified that she suffers from a right leg amputation above the knee which prevents her from transversing stairs. Additionally, the Appellant indicated that she requires assistance with wheeling because of her inability to navigate ramps. The Appellant was awarded a deficit in wheeling due to situational assistance with doors, etc. and a deficit in walking because she required two-person assistance. The testimony provided, coupled with her inability to walk or wheel without physical assistance, supported the fact that the Appellant is physically unable to vacate a building. Therefore, an additional deficit *can be* awarded in the contested area.

Dressing-The Appellant was assessed as a Level 1, self/prompting, in regard to dressing. To receive a deficit in the contested area, an individual would require physical assistance to perform the activity. The Appellant testified that she requires personal assistance in dressing with pulling her pants up unto her body. The testimony provided supported the Appellant's requirement with physical assistance in dressing; therefore, an additional deficit **can be** awarded in the contested area.

Transferring-The Appellant was assessed as a Level 2 requiring supervision or an assistive device to aid with transferring. To receive a deficit in the contested area, an individual would require hands on physical assistance from another person to transfer. The Appellant testified that she requires one-person assistance with transferring out of her wheelchair onto the shower chair. Additionally, the Appellant indicated that she requires assistance with wheeling the shower chair into the shower stall. The testimony provided supported the Appellant's requirement with physical assistance in transferring; therefore, an additional deficit **can be** awarded in the contested area.

Skilled Needs-The Appellant testified that she has a small open wound on her left ankle which requires daily cleaning and sterile dressing of the wound. To receive a deficit in the contested area, an individual requires assistance with skilled needs in sterile dressing. At the time of the assessment, the Appellant did not present any decubitus ulcers which required sterile dressing; therefore, an additional deficit in the contested area cannot be awarded.

Based on the testimony and documentation provided, the Appellant was found to be demonstrating additional deficits in the areas of vacating during an emergency, dressing and transferring. Whereas six deficits were identified for the Appellant, the Respondent's decision to deny medical eligibility for Long-Term Care Medicaid cannot be affirmed.

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 three (3) deficits on the PAS assessment completed October 14, 2025.
- 3) Based on the evidence, three additional deficits were awarded in the areas of vacating during an emergency, dressing and transferring.
- 4) The Appellant meets the medical eligibility requirements for Long-Term Care Medicaid assistance.

DECISION

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

ENTERED this ____ day of November 2025.

Eric L. Phillips
Certified State Hearing Officer