December 11, 2025

[redacted]

RE: [redacted] v. WVDoHS-BMS
ACTION NO.: 25-BOR-3307

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/PC&A/Kepro

WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted],

Appellant,

v. **Action Number: 25-BOR-3307**

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 December 10, 2025, on an appeal filed with the Board of Review on November 12, 2025.

The matter before the Hearing Officer arises from the October 24, 2025 decision by the Respondent to deny the Appellant's application for benefits and services under the Intellectual/Developmental Disabilities Waiver Program. (I/DD)

At the hearing, the Respondent appeared by Kerri Linton, consulting psychologist for the Bureau of Medical Services. The Appellant appeared with her representative [redacted]. Appearing as witnesses for the Appellant was [redacted]. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Bureau for Medical Services Provider Manual §§513.6 - 513.6.3
D-2 Notice of Decision dated October 24, 2025
D-3 Independent Psychological Evaluation dated September 26, 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 applied for benefits and services through the Respondent's Intellectual and Developmental Disabilities Waiver (IDD) program.

2) The Appellant is a 39-year-old adult.

3) On September 26, 2025, an Independent Psychological Evaluation (IPE) (Exhibit D-3), a requirement of the application process, was completed with the Appellant and her mother.

4) The Appellant was diagnosed with Intellectual Disability, Mild and Persistent Depressive Disorder by History. (Exhibit D-3)

5) On October 24, 2025, the Respondent issued a Notice of Decision (Exhibit D-2) informing the Appellant that her application for I/DD services had been denied because she failed to meet the diagnostic criteria. Specifically, the notice documents that the initial waiver application was denied because "documentation submitted for review does not include records to substantiate an eligible diagnosis with concurrent adaptive deficits were present in the developmental period (prior to age 22) as required by policy.

APPLICABLE POLICY

Bureau for Medical Services Provider Manual §513.6.2 states that to be eligible to receive I/DD Waiver Program Services, an applicant must meet the medical eligibility criteria in each of the following categories:

- Diagnosis;
- Functionality;
- Need for active treatment; and
- Requirement of ICF/IID Level of Care.

Diagnosis

The applicant must have a diagnosis of Intellectual Disability with concurrent substantial deficits manifested prior to age 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, if severe and chronic in nature, may make an individual eligible for the I/DD Waiver Program 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 because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of intellectually disabled persons, and requires services similar to those required for persons with intellectual disability.

Additionally, the applicant who has a diagnosis of intellectual disability or a severe related condition with associated concurrent adaptive deficits must meet the following requirements:

- Likely to continue indefinitely; and,
- Must have the presence of at least three substantial deficits out of the six identified major life areas listed in Section 513.6.2.2.

Functionality

The applicant must have substantial deficits in at least three of the six identified major life areas listed below:

- Self-care;
- Receptive or expressive language (communication);
- Learning (functional academics);
- Mobility;
- Self-direction; and,
- Capacity for independent living which includes the following six sub-domains: home living, social skills, employment, health and safety, community, and leisure activities. At a minimum, three of these sub-domains must be substantially limited to meet the criteria in this major life area.

Substantial deficits are defined as standardized scores of three standard deviations below the mean or less than one percentile when derived from a normative sample that represents the general population of the United States, or the average range or equal to or below the 75^{th} percentile when derived from Intellectual Disability (ID) normative populations when ID has been diagnosed and the scores are derived from a standardized measure of adaptive behavior. The scores submitted must be obtained from using an appropriate standardized test for measuring adaptive behavior that is administered and scored by an individual properly trained and credentialed to administer the test. The presence of substantial deficits must be supported not only by the relevant test scores, but also the narrative descriptions contained in the documentation submitted for review, i.e., psychological report, the IEP, Occupational Therapy evaluation, etc. if requested by the IP for review.

Active Treatment

Documentation must support the applicant would benefit from continuous active treatment. Active treatment includes aggressive consistent implementation of a program of specialized and generic training, treatment, health services, and related services. Active treatment does not include services to maintain generally independent individuals who are able to function with little supervision or in the absence of a continuous active treatment program.

DISCUSSION

Policy requires that an applicant for IDD Waiver program services must have written documentation that they meet eligibility criteria. Initial medical eligibility is determined by the Medical Eligibility Contracted Agent (MECA) through a review of the IPE report completed by a member of the Independent Psychological Network. The Respondent contracts with Psychological Consultation and Assessment (PC&A) as the MECA to determine applicant eligibility for the IDD Waiver Program. The MECA determines if the information provided aligns with the policy criteria for establishing Medicaid IDD Waiver eligibility. The Board of Review cannot judge the policy and can only determine if the MECA followed the policy when deciding about the Appellant's IDD Waiver eligibility.

To be determined eligible for the IDD Waiver program, an individual must meet the medical eligibility criteria of a diagnosis, functionality, the need for active treatment and the requirement of ICF/IID level of care. Eligibility is established for the diagnostic criteria when an individual presents a diagnosis of intellectual disability with concurrent substantial deficits manifested prior to age 22 or a related condition which constitutes a severe and chronic disability with concurrent substantial deficits manifested prior to age 22.

The Respondent denied the Appellant's application for failure to meet the diagnostic criteria. The Respondent contends that while the Appellant presented a current diagnosis of a Mild Intellectual Disability, a potential related condition under program guidelines, there was no information or documentation provided to demonstrate that the diagnosis, or substantial deficits, manifested prior to the age of 22.

The Appellant and her mother completed the IPE on September 26, 2025. As a measure of the Appellant's Intellectual and Cognitive abilities, the Appellant participated in a Wechsler Adult Intelligence Scale (Fourth Edition) in which she achieved a Full-Scale Intellectual Quotient Score of 52. The attending psychologist documented the Appellant's cognitive ability is in the extremely low range. As a measure of adaptive behavior, the Appellant was administered an Adaptive Behavior Assessment System which resulted in extremely low range of functioning related to adaptive behavior. Lastly, the Appellant was administered a Wide Ranche Achievement Test (Fifth Edition) in which she achieved a standard score of 55 in each of the areas of Word Reading, Spelling and Math Computation with a grade equivalent of first grade and below. The attending psychologist noted in the IPE that the Appellant has "displayed developmental delays since early childhood". As a result of the IPE, the Appellant was diagnosed with Intellectual Disability (Mild) and Persistent Depressive Disorder (by History). The Respondent's representatives indicated that the Appellant presented a potential eligible diagnosis under program guidelines; however, there was no information or documentation presented to support the Appellant's diagnosis manifested

prior to the age of 22.

The Appellant's representatives offered no contention to the denial of the application and proffered questions about reapplying for the program if the historical medical information was obtained.

Because the documentation did not establish the presence of an Intellectual Disability with concurrent substantial deficits which manifested prior to age 22, the Appellant failed to meet the diagnostic criteria. Whereas the Appellant did not meet the diagnostic criteria for the I/DD Waiver Program, the Respondent's decision to deny the Appellant's application is affirmed.

CONCLUSIONS OF LAW

1) Pursuant to policy, an individual must meet the medical eligibility criteria of a diagnosis of Intellectual Disability or related condition, the functionality criteria of at least three substantial adaptive deficits out of the six major life areas, the need for active treatment and a requirement of ICF/IID level of care to receive services under the I/DD Waiver Program.

2) Presented documentation failed to establish that the Appellant had an eligible diagnosis of an Intellectual Disability or a related condition, which is severe, that manifested during the developmental period of prior to age 22.

3) The Appellant does not meet the diagnostic criteria for services under the I/DD Waiver Program.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to deny the Appellant's application for services under the I/DD Waiver Program.

ENTERED this _____ day of December 2025.

_____

Eric L. Phillips
State Hearing Officer