



December 17, 2025

RE: [REDACTED] v. WV DoHS/BFA
ACTION NO.: 25-BOR-3157

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 (DoHS). 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: Susan Snider, [REDACTED] County DoHS

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

[REDACTED]

Appellant,

v.

Action Number: 25-BOR-3157

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

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 9, 2025.

The matter before the Hearing Officer arises from the Respondent's decision on October 14, 2025, to terminate the Appellant's eligibility for Home Community Based Services (HCBS) Waiver Medicaid benefits.

At the hearing, the Respondent appeared by Suan Snider, DoHS. Appearing as witnesses for the Respondent were John Dugan, DoHS; Kathy Fisher, DoHS; and Drema Berry, DoHS. The Appellant appeared and was represented by her friend, [REDACTED]. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DoHS Notice, dated October 14, 2025
- D-2 Case Comments
- D-3 DoHS/Bureau of Senior Services (BoSS) email correspondence, dated October 23, 2025
- D-4 West Virginia Income Maintenance Manual (WVIMM) excerpts

Appellant's Exhibits:

- A-1 Written statement, dated October 26, 2025
- A-2 Written Grievance Statements, dated November 25 and December 24, 2024, January 27, 2025
- A-3 DoHS Adult Protective Services findings letter, undated

- A-4 DoHS Supplemental Nutrition Assistance Program (SNAP) Notice, dated October 28, 2025
- A-5 DoHS Medical Assistance/SNAP eligibility notice, dated August 23, 2024
- A-6 DoHS SNAP eligibility notice, dated August 26, 2024
- A-7 DoHS HCBS Waiver Medicaid eligibility notice, dated October 14, 2025
United States Postal Service envelope

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 August 22, 2024, the Appellant was a recipient of LTC HCBS Waiver Medicaid (Exhibits D-2, A-2, and A-5).
- 2) The Appellant was discharged from ADW services on November 13, 2024 (Exhibits D-2 and D-3).
- 3) The Appellant requested a fair hearing regarding her ADW eligibility termination.
- 4) On December 24, 2024, the Appellant and [REDACTED] wrote a statement withdrawing the Appellant's request to have a fair hearing regarding the decision to discontinue the Appellant's Aged and Disabled Waiver (ADW) program eligibility (Exhibit A-2).
- 5) On October 10, 2025, the Appellant's authorized representative, [REDACTED], advised the Respondent that the Appellant no longer received Aged and Disabled Waiver (ADW) services (Exhibit D-2).
- 6) On October 14, 2025, the Respondent issued a notice advising the Appellant that her HCBS Waiver Medicaid eligibility would end after October 31, 2025, because she no longer requires the level of care provided by the Medicaid coverage group (Exhibit D-1 and A-7).
- 7) During the hearing, the Appellant's representative, [REDACTED], testified that the Appellant was not interested in continuing to receive Aged and Disabled Waiver (ADW) HCBS Medicaid eligibility.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 24.1 *Introduction* provides that long term care (LTC) includes both institutional care and non-institutional Home and Community-Based Services (HCBS). West Virginia's HCBS include four programs for people who would otherwise need institutional level of care, but have chosen to receive care in the community.

Waivers by the Centers for Medicare and Medicaid Services (CMS) to provide HCBS to several target populations include:

- Aged or disabled people under the Aged and Disabled Waiver (ADW) program
- Intellectually or developmentally disabled individuals under the Intellectual Disabilities and Developmental Disabilities (I/DD) Waiver
- Individuals with traumatic brain injury under the Traumatic Brain Injury (TBI) Waiver
- Children with Disabilities Community Services Program (CDCSP)

All LTC programs require a determination of medical eligibility, as well as a determination of financial eligibility conducted by the Worker.

WVIMM § 24.40 Establishing Medical Necessity provides that medical necessity is determined by the Bureau for Medical Services (BMS) Utilization Management Contracted (UMC) agency. When the UMC sends the white DHS-2 form, along with the Notice of Decision letter, medical necessity is presumed to be determined. The Worker has responsibility in this process to obtain the letter from the UMC as verification of medical eligibility at application and redetermination. The BMS, UMC, or case manager notifies the Worker when a client no longer meets medical necessity criteria for Aged and Disabled Waiver services.

DISCUSSION

During the hearing, the Appellant's representative argued that the Appellant was not seeking eligibility for LTC services and should be determined eligible for regular Medicaid. At the onset of the hearing, the parties were advised that the instant appeal arose from the Respondent's October 14, 2025 decision to terminate the Appellant's HCBS Waiver Medicaid eligibility. The Appellant's representative requested that a hearing be conducted, and findings be made regarding the issue.

Documentary and testimonial evidence was submitted regarding preceding determinations of the Appellant's eligibility for SNAP and other Medicaid categories. The submitted evidence reviewed the Appellant's complaints regarding ADW services previously provided and barriers the Appellant experienced with the Respondent's workers. Because the instant issue of appeal is related to the Respondent's adverse action on October 14, 2025, related to the Appellant's HCBS Waiver eligibility, the Board of Review is unable to provide the Appellant relief on other issues and can only determine whether the Respondent correctly decided the Appellant's eligibility for HCBS Waiver Medicaid on October 14, 2025.

The Board of Review lacks the authority to pass judgement on the Respondent's policy and can only determine if the Respondent acted correctly and followed the policy. The October 14, 2025 notice lists the basis for the Respondent's termination of the Appellant's HCBS Waiver Medicaid eligibility as "no longer requires the level of care provided by this Medicaid coverage." To prove that the Respondent correctly terminated the Appellant's HCBS Waiver Medicaid eligibility, the Respondent had to demonstrate by a preponderance of evidence that the Appellant did not have an active determination of medical eligibility for a HCBS Waiver Medicaid program in October 2025.

Although the Appellant's representative argued that the decision to terminate the Appellant's ADW eligibility occurred in October 2024, the preponderance of evidence demonstrated that the

Appellant was ineligible for the ADW program after November 2024. Neither party submitted documentary or testimonial evidence to establish that the Appellant was eligible for any other LTC HCBS Waiver program at the time of the Respondent's decision on October 14, 2025.

According to the submitted evidence, the Appellant did not have an active determination of medical eligibility for a HCBS Waiver Medicaid program in October 2025. Therefore, the Respondent's decision to terminate her HCBS Waiver Medicaid eligibility was correct.

CONCLUSIONS OF LAW

- 1) Long term care (LTC) includes both institutional care and non-institutional Home and Community-Based Services (HCBS), including the Aged and Disabled Waiver (ADW) program. LTC programs require a determination of medical eligibility and financial eligibility.
- 2) The Worker has a responsibility to obtain verification of medical eligibility at application and redetermination.
- 3) The preponderance of evidence revealed that after November 2024, the Appellant was ineligible for services provided by the ADW program.
- 4) The preponderance of evidence did not demonstrate that the Appellant was medically eligible for any other LTC HCBS program.
- 5) Because the Appellant did not have an active determination of medical eligibility for a HCBS Waiver Medicaid program in October 2025, the Respondent correctly terminated her HCBS Waiver Medicaid eligibility.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's eligibility for Home Community Based Services Waiver Medicaid benefits.

ENTERED this 17th day of December 2025.

Tara B. Thompson, MLS
Certified State Hearing Officer