



January 27, 2026

[REDACTED]

RE: [REDACTED] v. WVD~~o~~HS-BMS
ACTION NO.: 25-BOR-3457

Dear Ms [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: Terry McGee/Kesha Walton-BMS

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

██████████,

Appellant,

v.

Action Number: 25-BOR-3457

**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 ██████████. 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 originally convened on January 5, 2026, but was continued until January 22, 2026. The appeal was filed with the Board of Review on December 9, 2025.

The matter before the Hearing Officer arises from the November 19, 2025 decision by the Respondent to deny the Appellant's Long-Term Care (LTC) Medicaid.

At the hearing, the Respondent appeared by Terry McGee, Program Manager, Long Term Care-Bureau of Medical Services. Appearing as a witness for the Respondent was Melissa Grega*, Nurse Review, Acentra. The Appellant was represented by her daughter, ██████████. All witnesses were placed under oath and the following documents were admitted into evidence.

*The Appellant and Ms. Grega did not appear at the January 22, 2026 reconvene.

Department's Exhibits:

- D-1 Notice of Denial for Long-Term Care dated November 19, 2025
- D-2 Bureau of Medical Services Policy 514-Nursing Facility Services
- D-3 Pre-Admission Screening dated November 18, 2025
- D-4 ██████████ Center Medication List dated November 18, 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) In December 2025, the Appellant was discharged to the care of her daughter.
- 3) On November 18, 2025, the Pre-Admission Screening (PAS), a requirement to determine medical eligibility for LTC Medicaid assistance, was conducted by [REDACTED] M.D. (Exhibit D-3)
- 4) The PAS documented functional deficits in the areas of medication administration, grooming and dressing. (Exhibit D-3)
- 5) On November 19, 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 November 18, 2025, a PAS assessment was completed which documented that the Appellant met the criteria for functional deficits in the areas of medication administration, grooming and dressing. 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 November 19, 2025.

The Appellant’s representative contends that additional deficits should be awarded in the areas of bathing, bladder incontinence and hearing.

Bathing-The Appellant’s representative testified that her mother requires assistance transferring in and out of the shower. According to the PAS, the Appellant was assessed as a Level 1, Self/Prompting. There was no testimony presented to demonstrate that the Appellant requires “hands on” assistance in the contested area. Because testimony did not demonstrate the presence of a deficit in the contested area, an additional deficit **cannot** be awarded.

Bladder Incontinence-The Appellant’s representative testified that her mother cannot control her bladder. Testimony indicated that the Appellant experiences consistent bladder leakage and that she is unaware of the episodes. According to the PAS, the Appellant was assessed as a Level 2, Occasional Incontinence. The Appellant presented testimony to demonstrate the presence of total incontinence; therefore, a deficit in the contested life area *can be* awarded.

Hearing-The Appellant’s representative testified that her mother experiences trouble with hearing loss and “cannot hear very well”. Testimony indicated that the Appellant has corrective aides for her hearing; but does not utilize them as they do not fit. According to the PAS, the Appellant was assessed as a Level 1, not impaired. Testimony did not demonstrate the presence of a deficit in the contested area. Additionally, hearing is not considered under professional and technical care needs; therefore, an additional deficit in the contested area **cannot** be awarded.

An additional deficit was identified for the Appellant; however, the Appellant failed to meet the medical eligibility criteria of at least five required deficits in the area of care needs. Because the Appellant does not meet the medical eligibility criteria for Long-Term Care Medicaid assistance, the Respondent’s decision to deny LTC admission is 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 deficits on the PAS assessment completed November 18, 2025.
- 3) Based on evidence, one additional deficit was awarded in the area of incontinence.
- 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 January 2026.

Eric L. Phillips
State Hearing Officer