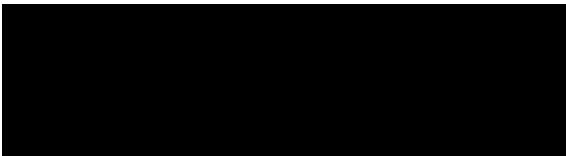




February 3, 2026



RE: [REDACTED] v. WV DoHS/BMS
ACTION NO.: 26-BOR-1007

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,

Lori Woodward, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Connie Sankoff, RN, BoSS

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

██████████,

Appellant,

v.

Action Number: 26-BOR-1007

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on January 28, 2026.

The matter before the Hearing Officer arises from the Respondent's decision to terminate Personal Care Services (PCS) as outlined in the Notice dated December 18, 2025.

At the hearing, the Respondent appeared by Connie Sankoff, RN with the Bureau of Senior Services. Appearing as a witness for the Respondent was Megan Storey, RN with ██████████ County Council of Aging. The Appellant was represented by his mother, ██████████. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request dated received on December 31, 2025
- D-2 Board of Review Scheduling Order dated January 6, 2026
- D-3 Notice of Denial dated December 18, 2025
- D-4 Personal Care Services Program RN Member Contact Form, note dated October 17, 2025
- D-5 Screen Print from Appellant's case file current status
- D-6 Personal Care Services Program Request for Discontinuation of Service, dated December 15, 2025; screen print of email dated December 8, 2025; Personal Care Services Program RN Member Contact Form, note dated October 17, 2025; signed statement from Megan Storey, RN dated December 15, 2025; Letter dated November 17, 2025 from Megan Storey, RN

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 transferred to the Respondent's Personal Care Services agency, ██████████ County Council on Aging ██████████ sometime in July 2025. At that time ██████████ did not have staff to provide care for the Appellant. (Exhibits D-4 and D-6)
- 2) On August 7, 2025, a caregiver was available two days a week, however, the Appellant's mother ██████████ declined, opting to have a family friend train for the position. (Exhibit D-6)
- 3) On August 26, 2025, an assessment was completed with the Appellant. At that time, a caregiver was available; however, the caregiver resigned before services could be started.
- 4) The Appellant's family friend was to complete the training in October 2025; however, the family friend accepted another job.
- 5) On November 17, 2025, a certified letter was sent to the Appellant but was returned as "attempted."
- 6) On December 15, 2025, ██████████ requested a discontinuation of services citing persistent non-compliance and non-access of PC services for 30 days. (Exhibit D-6)
- 7) On December 18, 2025, the Respondent sent notification to the Appellant that the PCS are being discontinued as no services had been accessed for 30 days. (Exhibit D-3)
- 8) The Appellant continues to be active in the Respondent's system. (Exhibit D-6)

APPLICABLE POLICY

Bureau of Medical Services (BMS) Manual, Chapter 517.28, DISCONTINUATION OF SERVICES, in pertinent part: A Request for Discontinuation of Services Form must be submitted and approved by the OA if the Member has not accessed PC services for 30 days ... The OA will review all requests for a discontinuation of services. If it is an appropriate request, and the OA approves the discontinuation, the OA will send notification of discontinuation of services to the member. The effective date for the discontinuation of services is 13 calendar days after the date of the OA notification letter, if the member does not request a hearing ... A PC provider agency must not stop services to a member for any reason, including lack of staff, lack of

cooperation between waiver and PC agency, environmental issues that are not addressed in the above section about unsafe environment, etc. without first consulting with the OA for technical assistance. If after the technical assistance with the OA, the PC provider agency is still unable to serve the member within 7 calendar days, the PC agency must counsel the member on the right to transfer to another PC agency. At no time is it acceptable for any PC member to go without direct care services for 30 calendar days.

DISCUSSION

The Appellant's mother transferred the Appellant's care to the ██████████ County Council on Aging ██████████ in July 2025. ██████████ did not have any staff to provide the Appellant services at that time. By August 7, 2025, ██████████ offered the Appellant caregiver services two days a week, however the Appellant's mother, ██████████, declined. ██████████ requested that a family friend begin training to become a caregiver for the Appellant. However, prior to the completion of the training, the family friend accepted another job. On November 17, 2025, RN Megan Storey with ██████████ sent a certified letter to ██████████ regarding possible closure of PCS benefits. The November 17, 2025, letter was returned as "attempted." On December 15, 2025, RN Storey requested discontinuation of services due to noncompliance and the Appellant's failure to access services for 30 days. On December 18, 2025, the Respondent issued a notice of closure to the Appellant citing failure to access PCS services for 30 continuous days.

Policy allows Personal Care Services (PCS) to be discontinued if the member has not accessed services for 30 days. There is no dispute that the Appellant has not accessed PCS services. However, ██████████ asserts that she was unaware that services could be discontinued for failure to access PCS services until she received the December 18, 2025, closure notice from the Respondent. ██████████ testified that she never received any information from ██████████ regarding program guidelines. RN Storey could not confirm or deny that she gave ██████████ a Member Users Guide.

The evidence and testimony showed that there was a lack of communication between ██████████ and ██████████. To compound the issue there was a lack of eligible caregivers both from ██████████ and by the Appellant which added to the prevention of PCS access. The Respondent's witness, RN Storey, testified that she believes that Appellant does need the PCS program. RN Storey stated that it is difficult to find and keep staff to provide caregiver services in the area. The Respondent's representative, RN Connie Sankoff, informed ██████████ that she could request a transfer and offered the name of agency contacts along with their phone numbers, to help facilitate a transfer. RN Sankoff's offer to have the Appellant transfer to another agency implies that the Respondent would be willing to continue the Appellant's PCS program benefits despite the lack of program access for over 30 days.

It does appear that the Appellant has not accessed any PCS program services since his transfer in July 2025. However, the preponderance of evidence showed that the unavailability of a qualified caregiver to provide PCS services appears to be at the root of the issue and not caused by the inaction of the Appellant. As no caregiver was available to provide the Appellant with PCS services, the Respondent's decision to terminate the Appellant from the program cannot be affirmed.

CONCLUSION OF LAW

Although the policy allows for termination from the PCS program due to non-access of services for 30 days, the preponderance of evidence showed that the Appellant's non-access of the PCS services was due to the agency not having an available caregiver and not through willful inaction.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to close PCS program benefits.

ENTERED this 3rd day of February 2026.

Lori Woodward, Certified State Hearing Officer