



February 26, 2026

[REDACTED]

RE: [REDACTED] A PROTECTED INDIVIDUAL v. WVBFA-BoSS
ACTION NO.: 26-BOR-1136

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: Connie Sankoff, BoSS

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

██████████ A PROTECTED INDIVIDUAL,

Appellant,

v.

Action Number: 26-BOR-1136

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES
BUREAU OF SENIOR SERVICES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████ A Protected Individual. 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 February 18, 2026, on an appeal filed with the Board of Review on January 22, 2026.

The matter before the Hearing Officer arises from the January 5, 2026 decision by the Respondent to deny the Appellant's eligibility for Personal Care Services.

At the hearing, the Respondent appeared by Connie Sankoff, RN, Bureau of Senior Services. Appearing as a witness for the Respondent was Alina Starcher, RN, Acentra and Stephanie Hopkins, Personal Care Manager-Acentra. The Appellant appeared by her mother, ██████████. Appearing as a witness for the Appellant was ██████████ the Appellant's father. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request dated January 8, 2026
- D-2 Board of Review Scheduling Order dated January 29, 2026
- D-3 Notice of Decision dated January 5, 2026
- D-4 Pre-Admission Screening Summary dated December 2, 2025
- D-5 Pre-Admission Screening dated December 2, 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, through her parents, applied for Personal Care Services (PCS).
- 2) The Appellant is a 4-year-old minor child.
- 3) The Appellant presented a diagnosis of Autism. (Exhibit D-5)
- 4) On December 2, 2025, a Pre-Admission Screening (PAS) assessment was completed with the Appellant and her representatives, to determine her medical eligibility for the PCS program. (Exhibit D-5)
- 5) The Appellant received a functional deficit in the areas of eating and continence. (Exhibit D-5)
- 6) Due to the Appellant's age, the Respondent followed the Centers for Disease Control and Prevention (CDC) guidelines for age-appropriate milestones.
- 7) The Respondent determined that the Appellant was not medically eligible for PCS.
- 8) On January 5, 2026, the Respondent issued a Notice of Decision (Exhibit D-3) informing the Appellant that she was determined medically ineligible for PCS, because she lacked the required three deficits in the thirteen critical areas.

APPLICABLE POLICY

The Bureau for Medical Services (BMS) Provider Manual §517.13.5 Medical Criteria, states,

An individual must have three deficits as described on the PAS Form to qualify medically for the Personal Care Program. These deficits are derived from a combination of the following assessment elements on the PAS. The UMC RN will use Center for Disease Control (CDC) guidelines for age-appropriate developmental milestones as criteria when determining functional levels and abilities for children.

Section	Observed Level	
#26	Functional abilities of individual in the home	
a.	Eating	Level 2 or higher (physical assistance to get nourishment, not preparation)
b.	Bathing	Level 2 or higher (physical assistance or more)
c.	Dressing	Level 2 or higher (physical assistance or more)
d.	Grooming	Level 2 or higher (physical assistance or more)
e.	Continen- ce, Bowel	Level 3 or higher (must be incontinent)
f.	Continen- ce, Bladder	
g.	Orientation	Level 3 or higher (totally disoriented, comatose).
h.	Transferring	Level 3 or higher (one-person or two-person assistance in the home)
i.	Walking	Level 3 or higher (one-person assistance in the home)
j.	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.)

An individual may also qualify for PC services if he/she has two functional deficits identified as listed above (items refer to PAS) and any one or more of the following conditions indicated on the PAS:

Section	Observed Level
#24	Decubitus; Stage 3 or 4
#25	In the event of an emergency, the individual is Mentally unable or Physically unable to vacate a building. Independently or With Supervision are not considered deficits.
#27	Individual has skilled needs in one or more of 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 PCS is determined when an individual exhibits three or more functional deficits on the PAS assessment.

As a result of the December 2, 2025 PAS assessment, the Appellant demonstrated two functional deficits in the areas of eating and continence. The Appellant, through her representatives, appeal the January 5, 2026 decision that she failed to meet the medical eligibility criteria for PCS citing timeline issues with her age. The Respondent must prove by a preponderance of the evidence that the Appellant failed to demonstrate functional deficits in three areas of the PAS assessment.

The Appellant is a 4-year-old-minor child who presented a primary diagnosis of Autism. Based on the PAS assessment, the Respondent awarded deficits in the areas of eating and continence. Connie Sankoff, RN, Bureau of Senior Services testified that in the determination of a minor child's eligibility for PCS, the Respondent utilizes the CDC guidelines for age-appropriate milestones. Ms. Sankoff purported that these guidelines outline that parental guidance is required in the life areas, specifically in the areas of vacating during an emergency, bathing, dressing and grooming through five years of age. Therefore, the child would need to obtain six years-of-age and require assistance in the specific life areas for a deficit to be awarded. Stephanie Hopkins,

Personal Care Manager-Acentra, confirmed the testimony, regarding that the minor child must obtain six years-of-age and require assistance, for a deficit to be awarded in those life areas. Ms. Hopkins averred that those areas are considered a “normal parental duty” for children under six years-of-age.

The Appellant’s representatives contend that additional deficits should have been awarded in the areas of bathing and grooming. Testimony revealed that the Appellant has been diagnosed with Autism and Global Developmental Delay which has resulted in her being non-verbal with expressive and receptive disabilities. The Appellant’s mother testified that her daughter requires total care in the contested areas due to her condition. Further, the Appellant’s father contended that the denial of his daughter’s medical eligibility is the result of a timeframe issue with her age. The Appellant’s father indicated that his daughter will turn five years-of-age next month and that information should be considered in the determination of eligibility.

When determining functional levels and abilities for children, the Bureau for Medical Services policy requires that the assessing nurse follow the Center for Disease Control Guidelines for age-appropriate developmental milestones. Additionally, such policy outlines that PCS do not replace the age-appropriate care that any child would need from a parent or legal guardian. Any activities of daily living provided for children must be for assistance beyond the age-appropriate care that is typically provided by a parent or legal guardian and must be medically necessary.

There is no question that the Appellant has been diagnosed with a condition which more likely than not will require additional assistance as she advances in age. However, a minor child must be assessed for age-appropriate care at the time of the assessment. While the child requires some assistance in the contested areas, those areas for a child of the same age group typically require parental assistance to complete the task. Because PCS are designed to assist with activities of daily living and those activities are considered a parental responsibility for a minor child, the Respondent was correct in its decision to not consider those areas while evaluating medical eligibility.

Whereas, the Appellant does not meet the medical eligibility criteria of at least three deficits as derived from the December 2025 PAS, the Respondent acted in accordance with policy in the denial of the Appellant’s application for PCS.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, an individual must have three deficits as described on the PAS assessment to qualify medically for PCS.
- 2) The Appellant received two deficits on the December 2025 PAS.
- 3) Policy requires that PCS does not replace age-appropriate care that any child would need from a parent or a legal guardian. Activities of daily living provided for the child must be for assistance beyond the age-appropriate care that is typically provided by a parent or legal guardian and must be medically necessary.

- 4) A child under the age of six threshold requires normal parental guidance while completing the task in the life areas assessed on the PAS.
- 5) The assistance that the Appellant receives while completing the assessed life areas is considered normal parental guidance.
- 6) The Appellant does not meet the medical eligibility criteria for PCS.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to deny the Appellant's application for Personal Care Services.

ENTERED this ____ day of February 2026.

Eric L. Phillips
Certified State Hearing Officer