February 5, 2026

[redacted]

RE: [redacted] v. WV DoHS/BMS
ACTION NO.: 25-BOR-3516

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,

Amy Hayes
State Hearing Officer
Member, State Board of Review

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

cc: Connie Sankoff, RN
[redacted] Appellant's Representative

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

[redacted]

**Appellant,**

**v.** **Action Number: 25-BOR-3516**

**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 January 27, 2026, on an appeal filed with the Board of Review on December 30, 2025.

The matter before the Hearing Officer arises from the December 5, 2025 decision by the Respondent to terminate the Appellant's Personal Care Services because he was found medically ineligible.

At the hearing, the Respondent appeared by Connie Sankoff, RN. Appearing as a witness for the Respondent was Braden Scheick, RN. The Appellant was present and was represented by [redacted] Appearing as a witness for the Appellant was [redacted] All witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

D-1 Request for Hearing
D-2 Scheduling Order regarding the above referenced matter sent on January 6, 2026
D-3 Notice of Decision: Termination letter from Bureau for Medical Services to [redacted] dated December 5, 2025
D-4 Medical Eligibility Summary dated November 18, 2025
D-5 Pre-Admission Screening (PAS) form dated November 18, 2025
D-6 Medical Eligibility Summary dated January 6, 2025
D-7 PAS form dated January 6, 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 recipient of Personal Care Services. (Exhibit D-3)

2) Medical eligibility for the Personal Care Program requires deficits in at least three (3) of 13 critical areas. (Exhibit D-3)

3) On January 6, 2025, a Pre-Admission Screening Form (PAS) was completed with the Appellant, at which time the Appellant was found to have deficits in bathing, dressing, transferring, and vacating a building. The total number of deficits was four (4) and the Appellant was found to be medically eligible for Personal Care Services. (Exhibit D-6)

4) On November 18, 2025, Braden Scheick, an RN for Acentra, completed a PAS with the Appellant as part of an annual redetermination. (Exhibit D-5)

5) The November 18, 2025 PAS indicated that the Appellant had two (2) deficits in the areas of bathing and vacating a building. (Exhibit D-4)

6) The November 18, 2025 PAS has notes which indicate that the Appellant self-reported improvement in functioning with regard to dressing and transferring. (Exhibit D-5)

7) The Appellant inaccurately self-reported improvement in his functional ability in the areas of dressing and transferring.

8) On December 5, 2025, the Respondent issued a notice to the Appellant advising that his Personal Care Services were being terminated because he was determined medically ineligible for Personal Care Services. (Exhibit D-3)

## APPLICABLE POLICY

**Bureau for Medical Services (BMS) Manual Chapter 517 Describes Personal Care Services. Section § 517.13 *Program Eligibility* provides, in pertinent part:**

**517.13 Program Eligibility**
Applicants for the Personal Care Program must meet all of the following criteria to be eligible for the program:

A. Be a resident of West Virginia. The individual may be discharged or transferred from a nursing home or other institution in any county of the state, or in another state, as long as his/her residence is in West Virginia;
B. Be approved as medically eligible as described in this section and its subparts;
C. Meet Medicaid financial eligibility criteria for the program as determined by the county DHHR office.

**517.13.1 Medical Eligibility Determination**
The UMC is the entity responsible to conduct the medical necessity assessment to confirm a person's eligibility for Personal Care services. The UMC will use the Pre-Admission Screening (PAS) tool to certify an individual's medical eligibility for PC services and determine the level of service required. To be medically eligible, a member must demonstrate three deficits, based on the presence and level of severity of functional deficits, possibly accompanied by certain medical conditions. A service level will be assigned based on a member's functional deficit and specified medical conditions identified on the PAS.

The purpose of the medical eligibility review is to ensure the following:

A. Applicants and existing members receiving Personal Care services are medically eligible based on current and accurate evaluations.
B. Each applicant/member determined medically eligible for Personal Care services receives an appropriate service level that reflects current/actual medical conditions and short and long-term service needs.

**517.13.4 Redetermination of Medical Eligibility**
Personal Care program members must be reevaluated annually to determine if they continue to meet medical eligibility criteria.

**517.13.5 Medical Criteria**
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.<br><br>f. | Continence, Bowel<br>Continence, Bladder | Level 3 or higher (must be incontinent) |

| | | |
|---|---|---|
| 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 c) mentally unable or d) physically unable to vacate a building. a) Independently and b) 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. |

**517.13.8 Results of PAS Evaluation (in pertinent part):**
**APPROVAL**
If the applicant or member meets the criteria for medical eligibility, the UMC will electronically issue an authorization for the approved service level to the selected Personal Care provider of record. The UMC will forward the authorization information to the claims payer. Once authorization is received from the UMC, the PC provider must complete the member's PC Assessment and PC POC, based on identified needs and member preferences, and initiate direct care services within 10 calendar days. When the PC agency receives the approval from the UMC, the PC agency RN must start to document actions on the RN Initial Contact Form.

**DENIAL**
If the UMC determines the applicant/member does not meet medical eligibility criteria for PC services, the UMC will provide the applicant/member with a denial letter within five business days of the decision date. The letter will include: why he/she does not meet medical eligibility, a copy of the PAS Summary, the applicable Personal Care policy manual section(s), notice of free legal services, and a Request for Hearing Form to be completed if the applicant/member wishes to contest the decision, and specific timeframes for filing an appeal.

**517.30 Medical Eligibility Appeals**
If a person is determined not to be medically eligible, a written Notice of Final Decision, a Request for Hearing form and the results of the PAS assessment are sent by mail by the

UMC to the person. A notice is also sent to the person's Case Manager via the UMC's web portal. The termination may be appealed through the Fair Hearing process if the Request for Hearing form is submitted to the Board of Review within 90 days of receipt of the Notice of Final Decision.

NOTE: If the person wishes to continue existing services throughout the appeal process, the Request for Hearing form must be submitted to the Board of Review within 13 days of the person's receipt of the Notice of Final Decision. This does not apply to cases closed due to unsafe environment. PC services will cease to those members upon submission of a Request to Discontinue services to the OA.

If the Request for Hearing form is not submitted to the Board of Review within 13 days of the person's receipt of the Notice of Final Decision, reimbursement for all PC services will cease.

A pre-hearing conference may be requested by the person once a Fair Hearing has been requested at any time prior to the Fair Hearing and the OA will schedule the meeting. At the pre-hearing conference, the person, the OA, and BMS will review the information submitted for the medical eligibility determination and the basis for the termination. If the person and BMS come to an agreement during the pre-hearing conference, the OA, upon request of the member, will withdraw the person's hearing request from the Board of Review. All parties will be notified by the OA in writing that the issue(s) have been resolved and the hearing request has been withdrawn.

If the denial of medical eligibility is upheld by the hearing officer, services that were continued during the appeal process must cease on the date of the hearing decision. If the termination based on medical eligibility is reversed by the Hearing Officer, the person's services will continue with no interruption.

## DISCUSSION

To qualify medically for the Personal Care Program, an individual must have three (3) deficits as described on the Pre-Admission Screening Form (PAS). A Registered Nurse (RN) uses the PAS to assess the functional abilities of an individual in the home. The Respondent found the Appellant medically ineligible for Personal Care Services (PCS) because a PAS completed on November 18, 2025, indicated that the Appellant had deficits in only two (2) areas. The Respondent must show by a preponderance of the evidence that it correctly determined that the Appellant was medically ineligible.

A previous PAS was completed with the Appellant on January 6, 2025. At that time, he was determined to have four (4) deficits and was found medically eligible. The deficits were in bathing, dressing, transferring, and vacating a building. Personal Care program members must be reevaluated annually to determine if they continue to meet medical eligibility criteria. The PAS completed on November 18, 2025, as part of a redetermination, indicated that the Appellant had only two (2) deficits, in bathing and vacating a building.

The difference between the PAS completed in January 2025, and the PAS completed in November 2025, was an apparent improvement in the level of ability assigned to dressing and transferring. On the January 2025 PAS, the Appellant's functional ability in transferring was assessed at Level 3 "One Person Assistance," whereas on the November 2025 PAS, the Appellant's functional ability in transferring was assessed at Level 2 "Supervised/Assistive Device." On the January 2025 PAS, the Appellant's functional ability in dressing was assessed at Level 2 "Physical Assistance," whereas on the November 2025 PAS, the Appellant's functional ability in dressing was assessed at Level 1 "Self/Prompting." The Respondent's witness Braden Scheick, RN, assessed the Appellant's home functional ability for the November 2025 PAS.

Mr. Scheick testified that the Appellant self-reported improvement in functioning in both dressing and transferring, and that the Appellant's representative [redacted] and witness [redacted] observed this self-report of improvement and did not contradict it. Mr. Scheick also indicated in the PAS that he observed the Appellant bend at the waist while seated and touch his feet with his hands. Additionally, the PAS comments indicated that the Appellant self-reported the ability to transfer without hands on assistance from the bed, toilet, and furniture used inside the home. Mr. Scheick testified that he observed the Appellant transfer without hands-on assistance. Further, Mr. Scheick testified that the Appellant's witnesses were present during the PAS and were made aware of the change in scoring from Level 2 to Level 1 in dressing and from Level 3 to Level 2 in transferring.

At the hearing, the Appellant and his witnesses contested his not receiving deficits in the areas of dressing and transferring. The Appellant testified that his function has not improved in dressing and transferring, and that he self-reported improvement in error because he was attempting to appear "macho." The Appellant and [redacted] testified that the Appellant is unable to put on his pants, socks, and shoes, and needs physical assistance in the area of dressing. The Appellant, [redacted], and the Appellant's caregiver [redacted], also testified that the Appellant needs one-person assistance to transfer some or most of the time. [redacted] testified that she helps the Appellant stand up because his legs give out on him. Their testimony indicated that the Appellant's functional ability on the day of the observation was not indicative of his actual daily ability.

The observation during the PAS and the testimony during the hearing regarding the Appellant's level of functioning differ. Mr. Scheick testified that the assessment used to assign levels of ability for the PAS is based both on observation and individual self-report, a totality of the circumstances. Mr. Scheick testified that he assigns levels of ability based on what he sees and what the individual tells him.

The testimony of the Appellant and his witnesses credibly showed that the Appellant did not accurately self-report his functional ability. Because the RN only observes for a short period of time, the Appellant and witness testimony was given more weight. The testimony of the Appellant and his two witnesses established that the Appellant inaccurately reported his functional ability during the PAS and that he requires physical assistance to put on his pants, socks, and shoes. Further testimony established that he needs one-person assistance to transfer some or most of the time. His need for one-person assistance during transfers is corroborated by notes in the PAS that state that the Appellant reported inability to transfer in and out of the shower/tub.

The Appellant showed by a preponderance of the evidence that he required physical assistance in dressing and one-person assistance in transferring at the time of the November 2025 PAS. The Appellant has two (2) additional deficits in addition to the two (2) awarded on the November 2025 PAS, one (1) in dressing and one (1) in transferring. The Respondent's decision to terminate Personal Care Services for medical ineligibility cannot be affirmed.

## CONCLUSIONS OF LAW

1) To remain eligible for Personal Care Services, the Appellant must have three (3) deficits that met criteria at the time of a Pre-Admission Screening Form (PAS) completed in November 2025, as part of his annual redetermination.

2) The November 2025 PAS indicated that the Appellant had two (2) deficits.

3) Based on evidence provided, two (2) additional deficits should have been awarded in the areas of dressing and transferring.

## DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's December 5, 2025, decision to terminate the Appellant's Personal Care Services based on medical eligibility.

**ENTERED this 5th day of February 2026.**

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**Amy Hayes**
**State Hearing Officer**
**Member, Board of Review**