



March 3, 2026

[REDACTED]

RE: [REDACTED] A PROTECTED INDIVIDUAL v. WV DoHS/BFA  
ACTION NO.: 26-BOR-1186

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 (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: Terry McGee, II, Bureau for Medical Services  
Kesha Walton, Bureau for Medical Services

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

██████████ A PROTECTED INDIVIDUAL,

**Appellant,**

v.

**Action Number: 26-BOR-1186**

**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 ██████████ 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 25, 2026.

The matter before the Hearing Officer arises from the Respondent's decision on December 11, 2025, to deny the Appellant's eligibility for Medicaid Long-Term Care admission.

At the hearing, the Respondent appeared by Terry McGee, II, Bureau for Medical Services. Appearing as a witness for the Respondent was Melissa Grega, RN, Acentra. The Appellant appeared by ██████████ the Appellant's guardian. All witnesses were placed under oath, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Evidence List; Notice of Denial for Long-Term Care
- D-2 Bureau for Medical Services Chapter 514 excerpt
- D-3 Pre-Admission Screening, completed December 8, 2025
- D-4 ██████████ Order Summary Report

**Appellant's Exhibits:**

- A-1 Circuit Court of ██████████ County, West Virginia Order of Appointment of Guardian and/or Conservator
- A-2 ██████████ Order Summary Report
- A-3 Letter by Dr. ██████████
- A-4 ██████████ Records

- A-5 [REDACTED] Medicine Records
- A-6 Email Correspondence  
State of West Virginia Medical Power of Attorney  
Physician's Determination of Capacity  
Notice of Denial for Long-Term Care, with highlights

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 is a resident of [REDACTED] (hereafter, the Facility) (Exhibits D-3).
- 2) On April 17, 2025, a *Physician's Determination of Capacity* was signed indicating that the Appellant demonstrated incapacity to make medical decisions due to "Alzheimer's Dementia" (Exhibit A-6).
- 3) On December 8, 2025, the Facility's physician [REDACTED] DO (hereafter [REDACTED]) completed a Pre-Admission Screening (PAS) to determine the Appellant's continued eligibility for Medicaid Long-Term Care benefits (Exhibit D-3).
- 4) Under PAS Section 38 *Physician Recommendations*, [REDACTED] indicated that the Appellant would not eventually be able to return home or be discharged and recommended that services and care to meet her needs could be provided at the nursing home level of care (Exhibit D-3).
- 5) The PAS indicated the Appellant had qualifying severe deficits in *medication administration, grooming, bathing, and dressing* (Exhibit D-3).
- 6) At the time of the PAS, the Appellant did not have a decubitus (Exhibit D-3).
- 7) The PAS reflected that the Appellant could vacate the building with supervision (Exhibit D-3).
- 8) The PAS reflected that the Appellant had occasional incontinence of bladder and was intermittently disoriented (Exhibit D-3).
- 9) At the time of the PAS, the Appellant did not have skilled needs in the areas of suctioning, tracheostomy, ventilator, parenteral fluids, sterile dressings, or irrigations (Exhibit D-3).
- 10) Under PAS Section 34 *Clinical and Psychological Data*, the PAS was marked *No* to the inquire of whether the Appellant had Alzheimer's, multi-infarct, senile dementia, or a related condition (Exhibit D-3).

- 11) Under PAS Section 34 *Diagnosis*, and the Facility's Order Summary, the Appellant's diagnoses were listed, including N18.30 Chronic Kidney Disease, Stage 3; R41.89 Other Symptoms and signs involving cognitive functions and awareness; F02.80 Dementia; and G30.9 Alzheimer's Disease (Exhibit D-3).
- 12) On November 12, 2025, Judge John Artimex signed an *Order of Appointment* assigning [REDACTED] as the Appellant's guardian and conservator due to the Appellant's mental impairment from mental illness or insanity (Exhibit A-1).
- 13) [REDACTED] testified that the Appellant used daily incontinence supplies and was incontinent more than three times per week at the time of the PAS completion.
- 14) [REDACTED] documented the Appellant's ongoing urinary incontinence in June 2018 (Exhibit A-5).
- 15) On December 9, 2025, [REDACTED] signed a letter verifying the Appellant's diagnosis of Dementia and Alzheimer's. The letter specified that the Appellant's cognitive deficits impact her judgement and decision-making abilities and short-term memory. [REDACTED] recommended that the Appellant remain in a long-term care facility (Exhibit A-3).
- 16) [REDACTED] testified that at the time of the PAS, the Appellant was unable to recognize unsafe situations and would be cognitively unable to vacate the building in the event of an emergency.
- 17) On December 12, 2025, Facility staff [REDACTED] emailed [REDACTED] that the Appellant's primary issues were "mainly cognitive in regard to her mentation, short term memory, judgement, reasoning, etc...." (Exhibit A-6).

### APPLICABLE POLICY

**Bureau for Medical Services (BMS) Manual § 514.5.1 *Application Procedures*** provides that the medical eligibility determination is based on a physician's assessment of the medical and physical needs of the individual. The Pre-Admission Screening (PAS) assessment must have a physician's signature dated not more than 60 days before admission to the nursing facility. A physician who has knowledge of the individual must certify the need for nursing facility care.

**BMS Manual § 514.5.2 *Pre-Admission Screening (PAS)*** provides that the PAS (level 1) identifies the medical need for nursing facility services based on evaluation of identified deficits and screens for the possible presence of a major mental illness, mental retardation, and/or developmental disability.

**Bureau for Medical Services (BMS) Manual § 514.5.3 *Medical Eligibility Regarding the PAS*** provides that to medically qualify for the nursing facility Medicaid benefit, an individual must need direct nursing care 24 hours a day, seven days a week. The BMS has designated a tool, known as the PAS form, to be utilized for physician certification of the medical needs of individuals applying for Medicaid benefits. The PAS must be completed, signed, and dated by a physician.

To qualify for nursing facility Medicaid benefit, an individual must have a minimum of five deficits identified on the PAS. These deficits may be any of the following (numbers represent questions on the PAS form):

- #24: Decubitus – Stage 3 or 4
- #25: In the event of an emergency, the individual is mentally or physically unable to vacate a building. Independently and with supervision are not considered deficits.
- #26: Functional abilities of the individual in the home.
  - Eating: Level 2 or higher (physical assistance to get nourishment...)
  - 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 person assist in the home)
  - Walking: Level 3 or higher (one person assistance in the home)
  - Wheeling: Level 3 or higher
- #27: Individual has skilled needs in one of these areas: suctioning, tracheostomy, ventilator, parenteral fluids, sterile dressings, or irrigations
- #28: Individual is not capable of administering his/her own medications

**BMS Manual Chapter 514, Appendix B *Pre-Admission Screening*** provides that for *eating, bathing, dressing* and *grooming*, Level 2 requires physical assistance. For *continence*: occasional incontinence is Level 2 and incontinence is Level 3. For *orientation*, Level 3 is totally disoriented. For *transfer* and *walking*, Level 3 requires one-person assistance. For *wheeling*, Level 3 requires situational assistance.

## DISCUSSION

The Appellant was previously approved in October 2025 for long-term care admission. In December 2025, the Respondent denied the Appellant’s medical eligibility because the PAS did not identify the presence of severe deficits in five functioning areas. According to the PAS, the Appellant was awarded qualifying severe deficits in *medication administration, grooming, bathing, and dressing*.

The Board of Review cannot judge the policy and can only determine if the Respondent followed the policy when deciding the Appellant’s Medicaid Long-Term Care benefit eligibility. Further, the Board of Review cannot make clinical determinations regarding the Appellant’s functional ability and may only determine if the Respondent correctly concluded the Appellant’s eligibility based on the severe deficits that were present at the time of the PAS.

The Respondent had to prove by a preponderance of evidence that the Appellant’s eligibility for Medicaid Long-Term Care admission was correctly denied because the Appellant did not have severe deficits in five areas at the time of the PAS.

Reliable documentary and testimonial evidence was presented by the Appellant's representative regarding the frequency of the Appellant's urinary incontinence and severity of the Appellant's cognitive limitations, including her total disorientation and cognitive inability to vacate in the event of an emergency. While the PAS failed to identify severe deficits in these areas, during the hearing, the Respondent's representative stipulated that the Appellant had severe deficits in *continence, orientation, and requires emergency assistance vacating*, and should have received deficits in those areas at the time of the PAS.

### CONCLUSIONS OF LAW

- 1) To be eligible for Medicaid Long-Term Care admission, the Appellant had to demonstrate five (5) severe functional deficits at the time of the PAS.
- 2) The preponderance of evidence revealed that at the time of the PAS, the Appellant had severe deficits in *medication administration, grooming, bathing, dressing, orientation, incontinence, and required emergency assistance vacating*.
- 3) As the Appellant had at least five (5) functional deficits at the time of the PAS and met Medicaid Long-Term Care admission medical eligibility criteria, the Respondent's decision to deny his eligibility cannot be affirmed.

### DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision on December 8, 2025, to deny the Appellant medical eligibility for Medicaid Long-Term Care admission. It is hereby **ORDERED** that the Appellant's Medicaid Long-Term Care eligibility be reinstated retroactively to the date of denial.

**ENTERED this 3<sup>rd</sup> day of March 2026.**

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**Tara B. Thompson, MLS**  
**Certified State Hearing Officer**