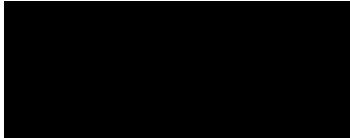




April 1, 2026



RE: [REDACTED] v. WVDoHS-BMS
ACTION NO.: 26-BOR-1421

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 assure 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: BMS

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

[REDACTED]

Appellant,

v.

Action Number: 26-BOR-1421

**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 April 1, 2026, on an appeal filed with the Board of Review on February 27, 2026.

The matter before the Hearing Officer arises from the February 13, 2026 decision by the Respondent to deny the Appellant's application for Long-Term Care (LTC) Medicaid assistance.

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

Department's Exhibits:

- D-1 Notice of Denial dated February 13, 2026
- D-2 Bureau of Medical Services Policy 514-Nursing Facility Services
- D-3 Pre-Admission Screening dated February 12, 2026
- D-4 Appellant prescription list for [REDACTED] Center at [REDACTED]

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 the [REDACTED] Center [REDACTED]
- 2) On February 12, 2026, the Pre-Admission Screening (PAS), a requirement to determine medical eligibility for LTC Medicaid assistance, was conducted by [REDACTED] M.D.. (Exhibit D-3)
- 3) The PAS documented functional deficits in the areas of medication administration and vacating during an emergency.
- 4) On February 13, 2026, a Notice of Denial (Exhibit D-1) was issued to the Appellant citing that his request for LTC Medicaid assistance was denied because he 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)
Contenance: 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 his 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 February 12, 2026, a PAS assessment was completed which documented that the Appellant met the criteria for functional deficits in the areas of medication administration and vacating during an emergency. 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 February 13, 2026.

The Appellant testified that he was diagnosed with pneumonia after the completion of the PAS assessment. The Appellant indicated that the pneumonia caused damage to his lungs which he now requires pulmonary therapy. The Appellant indicated that the related effects of the pneumonia now require him to have physical assistance with walking and bathing. Terry McGee, Program Manager, Bureau of Medical Services, testified that if the Appellant experienced a change in his medical condition after the completion of the PAS, he may reapply for Medicaid services at any time.

At the time of the assessment, the Appellant did not require physical assistance in the areas of walking and bathing; therefore, additional deficits in the contested areas cannot be awarded. Because the Appellant failed to meet the medical eligibility criteria of at least five required deficits in the area of care needs, he 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 two deficits on the PAS assessment completed February 12, 2026.
- 3) Based on evidence, no additional deficits were awarded.
- 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 April 2026.

Eric L. Phillips
Certified State Hearing Officer