



June 25, 2026

[REDACTED]

RE: [REDACTED] a Protected Individual, v. WV DoHS
ACTION NO.: 26-BOR-1825

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 people 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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Angela Signore, WV DoHS
Kerri Linton, PC&A
Janice Brown, Acentra

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

■ A PROTECTED INDIVIDUAL,

Appellant,

v.

Action Number: 26-BOR-1825

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on June 17, 2026.

The matter before the Hearing Officer arises from the Respondent's denial of benefits under the Intellectual and Developmental Disabilities (I/DD) Waiver Medicaid Program as outlined in a notice dated March 30, 2026.

At the hearing, the Respondent was represented by Kerri Linton, Licensed Psychologist, Long-Term Care Clinical Consultant, Bureau for Medical Services. The Appellant was present for the hearing and was represented by her mother, ■.

All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Bureau for Medical Services Policy Chapter 513.6
- D-2 Notice of Decision dated March 30, 2026
- D-3 Independent Psychological Evaluation dated March 26, 2026
- D-4 Independent Psychological Evaluation dated January 5, 2026
- D-5 Notice of Decision dated February 3, 2026
- D-6 Psychological Evaluation dated November 13, 2025
- D-7 Neuropsychological Evaluation dated September 3, 2025

- D-8 [REDACTED] Schools Report of Psychoeducational Assessment, report date May 13, 1998
- D-9 IEP Instructional Modifications dated April 24, 1997
- D-10 Individual Test Record, Stanford Achievement Test Series, Ninth Edition, test date April 16, 1999
- D-11 Individualized Education Program dated May 1999
- D-12 Notice of Individual Evaluation/Re-evaluation Request
- D-13 Individualized Education Program dated May 3, 2000
- D-14 Diagnostic Evaluation, test date January 25, 2001
- D-15 Eligibility Committee Report and Notice of Eligibility Committee and/or Individualized Education Program Team Meeting dated May 2, 2001
- D-16 Individual Test Record, Stanford Achievement Test Series, Ninth Edition, test date April 4, 2001
- D-17 Eligibility Committee Meeting Report dated May 8, 1998, and Individualized Education Program dated May 8, 1998
- D-18 Diagnostic Evaluation, test date April 23, 1998
- D-19 State of West Virginia Medical Leave of Absence Without Pay and/or Federal Family and Medical Leave Act (FMLA) certification form
- D-20 Psychoeducational Evaluation, [REDACTED] Schools, test date May 2, 1995
- D-21 Diagnostic Evaluation, test date April 25, 1995

Appellant's Exhibits:

- A-1 Medical Inquiry Form Response to an Accommodation Request and Job Accommodation Approval and Confirmation dated June 9, 2026

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, who is currently 42 years old, applied for the Intellectual and Developmental Disabilities (I/DD) Waiver Medicaid Program.
- 2) The Respondent sent the Appellant a Notice of Decision on March 30, 2026, indicating that her I/DD Waiver application was denied (Exhibit D-2).
- 3) The March 30, 2026, notice states that the Appellant's I/DD Waiver Medicaid application was denied because "Documentation submitted for review does not indicate an eligible diagnosis of Intellectual Disability or a Related Condition which is severe. Further, documentation submitted for review does not indicate the need for an ICF level of care or active treatment either at present or during the developmental period (prior to the age of 22)" (Exhibit D-2).

- 4) The March 30, 2026, notice goes on to state that the Respondent identified zero substantial adaptive deficits for the Appellant in the six major life areas specified for Waiver eligibility (Exhibit D-2).
- 5) The Appellant underwent an Independent Psychological Evaluation (IPE) on March 26, 2026, at age 42 years (Exhibit D-3).
- 6) The March 2026 IPE includes diagnoses of “Persistent Depressive Disorder with anxious distress, Generalized Anxiety Disorder with panic attacks, Borderline Intellectual Functioning, and Fluency Disorder, stuttering” (Exhibit D-3).
- 7) The psychologist indicated that the Appellant “may need some mild supports in order to maintain or improve her current level of functioning” (Exhibit D-3).
- 8) The Appellant dresses, grooms, and toilets independently. The Appellant can feed herself, use a stove independently, and make some simple meals (Exhibit D-3).
- 9) The Appellant can communicate verbally without the use of an assistive device but is noted to have a stutter (Exhibit D-3).
- 10) In 1997, the Appellant was in a regular education environment at school with special education services. In 1999, the Appellant switched into a 25 percent special education environment due to severe comprehension difficulties (Exhibit D-3).
- 11) Past testing indicates that the Appellant has low Borderline Intellectual Functioning (Exhibit D-3).
- 12) The Appellant ambulates independently without the use of mechanical aids (Exhibit D-3).
- 13) The Appellant can make simple choices if given two options verbally. She enjoys talking to friends, playing with her animals, visiting family, and playing card games. The Appellant is bothered by changes in schedule or routine, which may cause anxiety. The Appellant has poor perseverance and gives up easily when frustrated (Exhibit D-3).
- 14) If left alone, the Appellant can complete activities of daily living without prompting (Exhibit D-3).
- 15) The Appellant is married and shares home living tasks with her husband. She can do laundry, sweep, mop, and wash dishes. The Appellant has friends and gets along well with others. The Appellant manages most of her own health care needs, is aware of most safety issues, and drives independently (Exhibit D-3).
- 16) The Appellant does not know how to use all community resources and would not know who to call if she had no food or money (Exhibit D-3).

- 17) The Appellant previously worked at a fast-food restaurant and has worked at [REDACTED] for the past 17 years (Exhibit D-3).
- 18) The Appellant experiences anxiety and panic attacks (Exhibit D-3).
- 19) An Adaptive Behavior Assessment System, Third Edition (ABAS-3) instrument was completed for the Appellant. The Appellant's scores ranged from 4 to 9 on the ABAS-3, and she received no I/DD program-eligible scores of 1 or 2 in adaptive skills areas on the assessment (Exhibit D-3).
- 20) The Respondent considers scores of 55 and below as I/DD Waiver program-eligible scores on the Wide Range Achievement Test-Fifth Edition (WRAT-5). The Appellant was administered a WRAT-5 during her March 2026 IPE and received scores of 80 in word reading; 70 in spelling; 69 in math computation; 66 in sentence comprehension; and 71 in reading composite (Exhibit D-3).
- 21) The Appellant underwent an earlier IPE as part of her I/DD Waiver application on January 5, 2026 (Exhibit D-4).
- 22) Diagnoses from the January 2026 IPE include "Borderline Intellectual Functioning, Generalized Anxiety Disorder, Child-Onset Fluency Disorder (Stuttering), and Stressful Work Schedule" (Exhibit D-4).
- 23) The Appellant enrolled at [REDACTED] to study early childhood development after obtaining her high school diploma but had difficulty staying on task and withdrew after the first semester (Exhibit D-4).
- 24) The Appellant had a history of hallucinations in 2025 (Exhibit D-4).
- 25) The Appellant completed the Weschler Abbreviated Scale of Intelligence – Second Edition (WASI II) and received a full-scale IQ score of 73 (Exhibit D-4).
- 26) The Appellant was administered the WRAT-5 during her January 2026 IPE and received the following standard scores: word reading, 81; spelling, 75; math computation, 71; sentence comprehension, 71; and reading composite, 74 (Exhibit D-4).
- 27) The Appellant received scores ranging from 6 to 10 on the ABAS-3 during the January 2026 IPE (Exhibit D-4).
- 28) The Respondent sent the Appellant a Notice of Decision on February 3, 2026, informing her that I/DD Waiver services had been denied based on the results of the initial January 2026 IPE (Exhibit D-5).
- 29) A Psychological Evaluation was completed for the Appellant on December 8, 2025, when the Appellant was age 41 (Exhibit D-6).

- 30) The Appellant balances her checkbook independently (Exhibit D-6).
- 31) While in school, the Appellant received special education services, including speech therapy and accommodations in language arts and mathematics. The Appellant had been given Borderline Intellectual Functioning and Attention Deficit Hyperactivity Disorder diagnoses at that time (Exhibit D-6).
- 32) The Appellant was administered the Wechsler Adult Intelligence Scale, Fourth Edition (WAIS-IV) during the December 2025 evaluation and achieved a full-scale IQ of 64 with a general ability score of 70 (Exhibit D-6).
- 33) The Appellant completed an ABAS-3 during the December 2025 evaluation with domain scores recorded. The Appellant received a general adaptive composite standard score of 80. Scores of 55 and below are considered program-eligible scores for I/DD Waiver (Exhibit D-6).
- 34) The Appellant was diagnosed with Borderline Intellectual Functioning and Persistent Depressive Disorder with anxious distress, moderate-severe (Exhibit D-6).
- 35) The Appellant completed a Neuropsychological Evaluation on September 3, 2025, at age 41 (Exhibit D-7).
- 36) The Appellant was noted to be anxious and tearful during the evaluation (Exhibit D-7).
- 37) The Appellant completed a Weschler Adult Intelligence Scale, Fifth Edition (WAIS-V) and achieved a full-scale IQ score of 65 (Exhibit D-7).
- 38) The Appellant's conversational speech was prosodic and fluent, with normal rate and tone during the September 2025 evaluation (Exhibit D-7).
- 39) The Appellant was experiencing significantly elevated symptoms of depression and moderate symptoms of anxiety at the time of the September 2025 evaluation (Exhibit D-7).
- 40) The Appellant was diagnosed with Intellectual Developmental Disorder, mild, Generalized Anxiety Disorder, and Major Depressive Disorder, recurrent episode, moderate (Exhibit D-7).
- 41) The Appellant achieved a full-scale IQ score of 72 in 1998 at age 14 (Exhibit D-8).
- 42) An Individualized Education Program (IEP) completed in May 1999 when the Appellant was age 15 indicates that the Appellant's educational plan would lead to a standard diploma. At that time, the Appellant earned her own money, had a checking account, was buying a car, and had age-appropriate daily living skills (Exhibit D-11).

- 43) In 2001, the Appellant, at age 17, achieved standard composite scores on the Wechsler Individual Achievement Test (WIAT) of 77 in reading, 56 in mathematics, and 74 in writing (Exhibit D-14).
- 44) An Eligibility Committee Report dated February 2001 indicates that the Appellant met the criteria for “specific learning disabilities” (Exhibit D-15).
- 45) An Eligibility Committee Report dated May 1998 indicates that the Appellant met the criteria for “speech & language impaired” and “specific learning disabilities” (Exhibit D-17).
- 46) The Appellant completed a WIAT in April 1998 at age 14 and received standard composite scores of 83 in reading, 64 in mathematics, and 79 in writing (Exhibit D-18).
- 47) The Appellant received a full-scale IQ score of 81 on the Wechsler Intelligence Scale for Children, Third Edition during a Psychoeducational Evaluation completed in May 1995 when she was 11 years old (Exhibit D-20).
- 48) The Appellant was tested using WAIT and Woodcock-Johnson Written Language subtests in April 1995 and received a composite standard score of 76 in reading and 68 in mathematics (Exhibit D-21).
- 49) The Appellant completed a Family and Medical Leave Act Request and a request for accommodations for employment in 2025 (Exhibit D-19).
- 50) The Appellant’s employer approved employment accommodations for the period of May 2026 to May 2027 by allowing the Appellant confinement to the dish room (Exhibit A-1).

APPLICABLE POLICY

West Virginia Medicaid Regulations Chapter 513.6:

513.6.2.1 Diagnosis

The applicant must have a diagnosis of intellectual disability with concurrent substantial deficits manifested prior to age 22, or a related condition which constitutes a severe and chronic disability with concurrent substantial deficits manifested prior to age 22.

Examples of related conditions which may, if severe and chronic in nature, make an individual eligible for the I/DD Waiver Program include, but are not limited to, the following:

- Autism;
- Traumatic brain injury;

- Cerebral Palsy;
 - Spina Bifida; and
- Any condition, other than mental illness, found to be closely related to intellectual disabilities because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of intellectually disabled persons, and requires services similar to those required for persons with intellectual disabilities.

Additionally, the applicant who has the diagnosis of intellectual disability or a severe related condition with associated concurrent adaptive deficits must meet the following requirements:

- Likely to continue indefinitely; and,
- Must have the presence of at least three substantial deficits out of the six identified major life areas listed in *Section 513.6.2.2 Functionality*.

513.6.2.2 Functionality

The applicant must have substantial deficits in at least three of the six identified major life areas listed below:

- Self-care;
- Receptive or expressive language (communication);
- Learning (functional academics);
- Mobility;
- Self-direction; and,
- Capacity for independent living which includes the following six sub-domains: home living, social skills, employment, health and safety, community, and leisure activities. At a minimum, three of these sub-domains must be substantially limited to meet the criteria in this major life area.

Substantial deficits are defined as standardized scores of three standard deviations below the mean or less than one percentile when derived from a normative sample that represents the general population of the United States, or the average range or equal to or below the 75th percentile when derived from Intellectual Disability (ID) normative populations when intellectual disability has been diagnosed and the scores are derived from a standardized measure of adaptive behavior. The scores submitted must be obtained from using an appropriate standardized test for measuring adaptive behavior that is administered and scored by an individual properly trained and credentialed to administer the test. The presence of substantial deficits must be supported not only by the relevant test scores,

but also the narrative descriptions contained in the documentation submitted for review, i.e., psychological report, the IEP, Occupational Therapy evaluation, etc., if requested by the IP for review.

513.6.2.3 Active Treatment

Documentation must support that the applicant would benefit from continuous active treatment. Active treatment includes aggressive consistent implementation of a program of specialized and generic training, treatment, health services, and related services. Active treatment does not include services to maintain generally independent individuals who are able to function with little supervision or in the absence of a continuous active treatment program.

DISCUSSION

To qualify medically for the I/DD Waiver Medicaid Program, policy states that an applicant must have a diagnosis of intellectual disability with concurrent substantial deficits manifested prior to age 22, or a related condition which constitutes a severe and chronic disability with concurrent substantial deficits manifested prior to age 22. In addition, an individual must have at least three substantial adaptive deficits in the major life areas identified in policy and meet the need for active treatment/services criteria.

Kerri Linton, Licensed Psychologist representing the Bureau for Medical Services, reviewed the Respondent's evidence and testified that the Appellant does not meet diagnostic and/or functionality criteria for the I/DD Waiver Program. Ms. Linton indicated that Borderline Intellectual Functioning is not considered an intellectual disability, and mental health and fluency disorders are not eligible diagnoses for the I/DD Program. Ms. Linton contended that the only time the Appellant was diagnosed with an intellectual disability was at age 41, and that the Appellant appears to enjoy a typical life but has mental health struggles. There is no evidence that the Appellant requires an ICF level of care.

The Appellant's mother, [REDACTED], testified that she agrees with the Respondent's findings, indicating that she insisted the Appellant have her own checking account while in high school to foster independence. [REDACTED] stated that the Appellant required a lot of support with balancing her checking account and paying bills. [REDACTED] indicated that the Appellant's psychiatrist recommended that the Appellant apply for the IDD Waiver Program after trying multiple medications. She testified that most of the Appellant's problems seem to be psychological. The Appellant addressed the situations at work that cause her stress. [REDACTED] addressed the Appellant's anxiety issues and indicated that the Appellant is searching for support so that she can continue to work.

While the Appellant's condition poses challenges, information provided during the hearing does not support a diagnosis of intellectual disability with concurrent substantial deficits manifested prior to age 22, or a related condition which constitutes a severe and chronic disability with concurrent

substantial deficits manifested prior to age 22. Based on evidence and testimony, the Appellant's decision to deny eligibility for the I/DD Waiver Medicaid Program is affirmed.

CONCLUSIONS OF LAW

- 1) To qualify for I/DD Waiver Medicaid benefits, an individual must meet the diagnostic, functionality, severity, and need for active treatment/services criteria.
- 2) An applicant must have a diagnosis of intellectual disability with concurrent substantial deficits manifested prior to age 22, or a related condition which constitutes a severe and chronic disability with concurrent substantial deficits manifested prior to age 22.
- 3) Documentation submitted for review fails to confirm that the Appellant meets diagnostic, functionality, severity, and need for active treatment criteria.
- 4) The Respondent's decision to deny I/DD Waiver Medicaid benefits based on failure to meet program criteria is affirmed.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to deny the Appellant's I/DD Waiver Medicaid application.

ENTERED this 25th day of June 2026.

Pamela L. Hinzman
State Hearing Officer