Ann Urling
Inspector General

June 24, 2026

[redacted]

RE: [redacted] a Protected Individual, v. WV DoHS
ACTION NO.: 26-BOR-1980

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

[redacted] A PROTECTED INDIVIDUAL,

Appellant,

v. **Action Number: 26-BOR-1980**

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] 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 10, 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 April 9, 2026.

At the hearing, the Respondent was represented by Charley Bowen, Licensed Psychologist, Long-Term Care Clinical Consultant, Psychological Consultation & Assessment (PC&A). The Appellant was present for the hearing and was represented by [redacted] Child Protective Service Worker, WV DoHS. Appearing as witnesses for the Appellant were [redacted] Esq., the Appellant's guardian ad litem; and [redacted] Chief Operating Officer for Treatment Services/ therapist, [redacted]

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 Denial dated April 9, 2026
- D-3 Independent Psychological Evaluation dated April 2, 2026
- D-4 "What's Your Anger Style?" Assessment
- D-5 [redacted] School Psychiatric Evaluation dated November 5, 2025

D-6 Individualized Education Program (IEP), [redacted] Schools, dated September 24, 2025
D-7 IEP, [redacted] Schools, Positive Behavior Intervention Plan Summary Statement and Competing Behavior Paths dated September 24, 2025
D-8 Progress Report, IEP Goals and Objectives, dated January 8, 2026
D-9 [redacted] School report card
D-10 [redacted] National Centers Diagnostic Evaluation dated September 3, 2025
D-11 [redacted] National Centers Therapeutic Report dated September 4, 2025
D-12 [redacted] National Centers Milieu Report dated September 4, 2025
D-13 [redacted] National Centers Diagnostic Classroom Report dated September 4, 2025
D-14 [redacted] Biopsychosocial v2 report dated July 24, 2025
D-15 [redacted] PA RES Psychological Evaluation dated August 19, 2025
D-16 [redacted] Comprehensive Psychiatric Evaluation Inpatient dated July 25, 2025
D-17 [redacted] Comprehensive Psychiatric Evaluation Update dated September 4, 2025

Appellant's Exhibits:

A-1 Letter from [redacted] School dated May 29, 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 17 years old and is a resident of [redacted] School, applied for the Intellectual and Developmental Disabilities (I/DD) Waiver Medicaid Program.

2) The Respondent sent the Appellant a Notice of Decision on April 9, 2026, indicating that his I/DD Waiver application was denied (Exhibit D-2).

3) The April 9, 2026, notice states that the Appellant's I/DD Waiver Medicaid application was denied because "Documentation submitted for review does not support the presence of an eligible diagnosis for the I/DD Waiver Program of Intellectual Disability or a Related Condition which is severe. Further, documentation submitted for review does not indicate the need for an ICF/IID level of care" (Exhibit D-2).

4) The April 9, 2026, notice goes on to state that the Respondent identified zero substantial adaptive deficits in the six major life areas identified for Waiver eligibility (Exhibit D-2).

5) The Appellant underwent an Independent Psychological Evaluation (IPE) on April 2, 2026, at age 17 years (Exhibit D-3).

6) The April 2026 IPE includes diagnoses of "Autism Spectrum Disorder, level 2; ADHD, combined presentation by history, Child Sexual Abuse, Child Physical Abuse, Child Neglect, Borderline Intellectual Functioning, and Generalized Anxiety Disorder" (Exhibit D-3).

7) The psychologist indicated that the Appellant would likely need "ongoing training and supervision in order to maintain or improve his current level of functioning" (Exhibit D-3).

8) The Appellant requires verbal prompting to complete all grooming activities. He can dress and undress without physical assistance, and can toilet independently, although he has defecated on the floor in the past. The Appellant can feed himself with a fork and spoon and can make simple meals; however, he caught a stove on fire during one of his past placements (Exhibit D-3).

9) The Appellant can communicate verbally without the use of an assistive device (Exhibit D-3).

10) The Appellant was receiving special education services and was in the special education environment for 59 percent of the day (Exhibit D-3).

11) The Appellant ambulates independently without the use of mechanical aids (Exhibit D-3).

12) The Appellant can make simple choices if given two options verbally. He enjoys making costumes, drawing comics, and playing video games. However, he often believes that he is a character in the video games. He has difficulty with changes in schedule or routine and gives up quickly when faced with a difficult task (Exhibit D-3).

13) The Appellant can do some household chores such as sweeping, mopping and cleaning dishes. He gets along better with younger peers and gets attached to one person at a time. The Appellant could not utilize community resources or seek assistance independently. The Appellant is unaware of safety issues and does not have any current employment skills (Exhibit D-3).

14) A Wechsler Adult Intelligence Scale-Fourth Edition (WAIS-4) was administered to the Appellant as part of the April 2026 IPE. The Appellant scored 72 in verbal comprehension; 71 in perceptual reasoning; 71 in working memory; and 79 in processing speed. The Appellant achieved a full-scale IQ score of 68, which falls in the mild intellectual disability range. Based on previous testing, the evaluator indicated that the Appellant likely functions at the lower end of borderline intellectual functioning (Exhibit D-3).

15) An Adaptive Behavior Assessment System, Third Edition (ABAS-3) instrument was completed for the Appellant. The Appellant received I/DD program-eligible scores of 1 and 2 in the skill areas of communication, leisure, and social. No other eligible scores were recorded (Exhibit D-3).

16) 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 his April 2026 IPE and received scores of 76 in word reading; 74 in spelling; 70 in math computation; 74 in sentence comprehension; and 73 in reading composite (Exhibit D-3).

17) The Appellant was screened using the Gilliam Autism Rating Scale-3 (GARS-3) and received an autism index score of 97, suggesting a probability of Autism Spectrum Disorder Level 2 (Exhibit D-3).

18) The Appellant underwent a Psychiatric Evaluation through [redacted] School on November 5, 2025, at which time the Appellant's speech showed articulation difficulty, but was understandable. The evaluator indicated that the Appellant appeared to be of low-average intelligence (Exhibit D-5).

19) The Appellant was given several diagnoses on the November 2025 Psychiatric Evaluation, including autism spectrum disorder (unspecified level) and borderline intellectual functioning (Exhibit D-5).

20) The Appellant previously had an Individualized Education Program (IEP) through [redacted] Schools and received services based on a "mild/moderate mental impairment" (Exhibit D-6).

21) The Appellant underwent a [redacted] Diagnostic Program Evaluation on September 3, 2025, at which time he obtained a full-scale IQ of 70, with noted below average verbal and nonverbal reasoning abilities. The evaluator surmised that if personal variables, such as anxiety, were optimal, then the Appellant's true IQ score could increase up to the highest end of the borderline range (79). If personal variables were not optimal, the Appellant's score could decrease into the mid deficient range of IQ (65) (Exhibit D-10).

22) The Appellant was diagnosed with Post-Traumatic Stress Disorder, Autism Spectrum Disorder (no level specified) and Borderline Intellectual Functioning on the September 2025 assessment (Exhibit D-10).

23) The evaluator identified the Appellant as having mild to moderate symptoms of Autism Spectrum Disorder (Exhibit D-10).

24) A [redacted] Diagnostic Classroom Report dated September 4, 2024, shows WRAT scores for the Appellant ranging from 70 to 77 (Exhibit D-13).

25) A [redacted] Psychological Evaluation dated August 19, 2025, lists diagnoses for the Appellant of Post-Traumatic Stress Disorder, Autism Spectrum Disorder (mild to moderate symptoms), and Borderline Intellectual Functioning (Exhibit D-15).

26) A [redacted] Comprehensive Psychiatric Evaluation Update dated September 4, 2025, includes diagnoses of Post-Traumatic Stress Disorder, Autism Spectrum Disorder (level unspecified), and Borderline Intellectual Functioning (Exhibit D-17).

27) During his time at [redacted] School, the Appellant has required frequent prompts and supervision to complete basic hygiene and daily living tasks. A structure protocol was implemented to ensure regular hygiene and clothing changes (Exhibit A-1).

28) The Appellant has demonstrated limited insight into the seriousness of appropriate toileting hygiene (Exhibit A-1).

29) The Appellant has demonstrated significant difficulty with judgment, boundaries and understanding consequences, engaging in repeated unauthorized possession of contraband items, such as scissors, markers, and other restricted objects taken from staff areas (Exhibit A-1).

30) The Appellant has a persistent attachment to costumes, fantasy-based identities, and fictional worlds, struggling to differentiate between reality and fiction (Exhibit A-1).

31) The Appellant demonstrates deficits in social awareness and interpersonal boundaries, and maladaptive coping when distressed or confronted (Exhibit A-1).

32) The Appellant has limited understanding of adult responsibilities, including transportation and independent functioning, expecting that others will manage essential responsibilities for him (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.

Charley Bowen, Licensed Psychologist with PC&A, reviewed the Respondent's evidence and testified that the Appellant does not meet diagnostic and/or functionality criteria for the I/DD Waiver Program.

[redacted], Adult Protective Service Worker/Appellant's case worker, testified concerning the Appellant's deficits, indicating that he would not take medication or shower without prompting. [redacted] stated that the Appellant has been in a controlled environment since 2025 and is dependent on his caregivers. The Appellant does not have goals typical of persons in his age group, does not seem to be engaged in working toward independence, and exhibits negative self-talk. [redacted] indicated that the Appellant started a fire while previously residing in a group home.

[redacted], the Appellant's therapist with [redacted] School, testified about the Appellant's difficulties with personal care, indicating that staff must give the Appellant one outfit per day to ensure that he changes his clothing. [redacted] stated that the Appellant prefers to wear costumes and lives in fantasies, struggling to understand reality. The Appellant hides items and must be monitored, and struggles with understanding appropriate boundaries and social cues. The Appellant becomes fixated on certain things, and [redacted] believes he would be unable to obtain a full-time job to support himself.

While the Appellant's condition poses many 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 and functionality 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 24th day of June 2026.

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Pamela L. Hinzman
State Hearing Officer