



**Ann Urling**  
Inspector General

August 19, 2026

[REDACTED]  
[REDACTED]  
RE: [REDACTED] A PROTECTED INDIVIDUAL, v. WV DoHS/BMS  
ACTION NO.: 26-BOR-2221

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Angela Signore, Department Representative  
Janice Brown, Department Representative  
[REDACTED] Appellant Representative

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

■ A PROTECTED INDIVIDUAL,

**Appellant,**

**v.**

**Action Number: 26-BOR-2221**

**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 August 5, 2026, on a timely appeal filed with the Board of Review on June 17, 2026.

The matter before the Hearing Officer arises from the May 15, 2026 decision by the Respondent to deny services provided through the I/DD Waiver Program.

At the hearing, the Respondent appeared by Angela Signore. Appearing as a witness for the Respondent was Brittany Rigglesman. The Appellant was self-represented and appeared by ■ Advocate from Disability Rights of West Virginia. Appearing as witnesses for the Appellant were ■ All witnesses were placed under oath, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of decision, dated May 15, 2026
- D-2 BMS Provider Manual, Chapter 513 (excerpt)
- D-3 BMS Provider Manual, Chapter 513 (excerpt)
- D-4 BMS Provider Manual, Chapter 513 (excerpt)
- D-5 BMS Provider Manual, Chapter 513 (excerpt)
- D-6 BMS Provider Manual, Chapter 513 (excerpt)
- D-7 I/DD Waiver Exception Request Form, signed May 5, 2026
- D-8 Individualized Program Plan (IPP) for the Appellant, meeting date April 7, 2026  
Addenda dated May 11, 2026
- D-9 Notice of Budget Determination, dated March 4, 2026

- D-10 WV I/DD Structured Interview, dated February 24, 2026
- D-11 Purchase Request Details for the Appellant  
Budget Year: May 1, 2026, through April 30, 2027
- D-12 Inventory for Client and Agency Planning  
Evaluation date: February 24, 2026
- D-13 Rights and Responsibilities form, signed February 24, 2026  
I/DD Waiver Individualized Budget and Eligibility Assessment Signature Sheet,  
signed February 24, 2026

**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 is a participant in the I/DD Waiver Program.
- 2) A structured interview (Exhibit D-10) was conducted on February 24, 2026, to determine the Appellant's budget amount.
- 3) The Appellant's assigned individualized budget for the service year from May 1, 2026, through April 30, 2027, is \$185,964.20. (Exhibit D-11)
- 4) The Respondent notified the Appellant of his individualized budget amount in a notice dated March 4, 2026. (Exhibit D-9)
- 5) This notice (Exhibit D-9) advised the Appellant of the Respondent's "exceptions process" to request I/DD Waiver services in excess of the individualized budget amount, and noted, in part, "If the IDT believes that the assigned budget is not enough to keep the member safe and healthy in order to avoid a heightened risk of institutionalization...the IDT can ask for an exception to receive services in excess of the assigned budget..."
- 6) This notice (Exhibit D-9) additionally noted, "In order to receive additional services, the IDT will need to show that the member needs can be met only with additional support and services paid for through the waiver..."
- 7) The Appellant requested additional services through the I/DD program in excess of his individualized budget. (Exhibit D-7)
- 8) The Appellant requested (Exhibit D-7) an increase in the number of units of Licensed Group Home Person-Centered Support – provided in a 1:1 ratio (designated in applicable policy

with a procedure code of S5125-U1 and noted herein as “U1”) – from 14,600 units to 17,520 units.

- 9) The units requested correspond to a change in the hours per day of U1 utilization from 10 hours per day to 12 hours per day.
- 10) The request for additional U1 units was accompanied by a reduction in the requested number of units of Licensed Group Home Person-Centered Support – provided in a 1:2 ratio (designated in applicable policy with a procedure code of S5125-U2 and noted herein as “U2”) – from 8,760 (or six hours per day) to 5,840 (or four hours per day).
- 11) The Appellant was utilizing all of his assigned budget amount except \$289.18 (Exhibit D-11)
- 12) The Appellant’s requested change in U1 and U2 units would result in an increased cost that exceeded the remaining amount in the Appellant’s individualized budget.
- 13) The Respondent notified the Appellant that his request for services was denied in a letter dated May 15, 2026. (Exhibit D-1)
- 14) This notice (Exhibit D-1) stated, in part, “Review of your request supports \$185,459.02 for the current service year...”
- 15) The notice (Exhibit D-1) denied the Appellant’s request for 17,520 U1 units and 5,840 U2 units and noted “approvable units” of 14,600 U1 units and 8,760 U2 units.
- 16) The notice (Exhibit D-1) listed the reason for the decision as “The individual has not shown that the waiver services that can be purchased within budget are insufficient to prevent a risk of institutionalization.”
- 17) In response to a prompt on the exceptions request form (Exhibit D-7) for “additional information you feel supports your request for additional 1:1 services,” the Appellant’s team noted:

IDT members are requesting additional 1:1 and less 1:2 units due to [Appellant’s] risk for falls and his roommates [sic] severe behavior. [Appellant] would not be able to participate in community activities without 1:1 staffing. Attention seeking behavior of his roommates [sic] negatively impacts his quality of life when he is in 1:2 staffing scenarios. [Appellant] has a history of running up/down stairs and falling when he is not accompanied by staff to ensure his staffing.
- 18) The Appellant submitted an addendum to his Individualized Program Plan, and two corrected addenda, noting the reason for addendum as “...where there has been fluctuation in staffing and availability...” (Exhibit D-8)
- 19) All three addenda (Exhibit D-8) were dated May 11, 2026, and noted the same reason.

- 20) Angela Signore, representative for the Respondent, was a member of the panel that reviewed the Appellant's exceptions request.
- 21) Ms. Signore noted the Appellant is currently approved for U1 units corresponding to 10 hours per day and does not fully utilize this amount.
- 22) [REDACTED] is employed by the Appellant's service provider and provides I/DD waiver services to the Appellant.
- 23) [REDACTED] contended the Appellant requires the requested services in excess of the assigned budget due to the Appellant's risk of falls.
- 24) [REDACTED] noted the Appellant uses a gait belt to mitigate his fall risk.

### **APPLICABLE POLICY**

The Bureau for Medical Services Provider Manual, Chapter 513, § 513.25.4.2, provides in part:

...

If determined medically eligible, the member or their legal representative and case management provider will receive an individualized budget...Once the member's budget has been calculated, the member will receive a notice each year that sets forth the member's individualized budget for the IPP year and an explanation for how the individualized budget was calculated...Once the member receives his or her budget letter, the IDT team will meet with the member to develop the annual IPP...If the IDT determines after careful consideration that funds beyond the individualized budget are still necessary to avoid a risk of institutionalization, the member and/or the legal representative (or the case manager on their behalf), after consultation with the IDT, may submit a request for services in excess of the budget to BMS through the UMC web portal, along with any supporting documentation...A panel of three individuals employed by DHHR or its contractor will review the "exceptions" request to determine if any errors were made in the service authorization process, including if any technical errors were made in the assessment, and/or if funds in excess of the budget are needed to purchase clinically appropriate services necessary to prevent a risk of institutionalization...The individual seeking additional services through the "exceptions process" has the burden of showing that services in excess of the individualized budget are necessary to avoid a risk of institutionalization...the member or his legal representative must provide a clear explanation on the "exceptions process" request as to which additional services are requested and why they are necessary to prevent a risk of institutionalization, and may provide documentation to support his or her position...In determining whether the member has met his or her burden to receive services in excess of the budget, the three-person panel shall consider, among other things...(t)he feasibility of rearranging services within the member's budget...

The Bureau for Medical Services Provider Manual, Chapter 513, § 513.17.3, describes Licensed Group Home Person-Centered Support services, notes service codes of S5125-U1 and S5125-U2 for services provided in a 1:1 ratio and a 1:2 ratio, respectively, and notes “...services must be within the individualized budget of the member, except to the extent services in excess of the individualized budget are approved pursuant to the procedures and standards in Section 513.25.4.2...”

The Bureau for Medical Services Provider Manual, Chapter 513, § 513.25.2, provides in part:

The member and/or their legal representative (if applicable) have the following responsibilities...(t)o purchase services within their annual individualized budget or utilize natural or unpaid supports for services unable to be purchased, except to the extent services in excess of the individualized budget are approved pursuant to the procedures and standards in Section 513.25.4.2...”

The Code of Federal Regulations, 42 CFR § 441.300, provides, in part:

Section 1915(c) of the Act permits States to offer, under a waiver of statutory requirements, an array of home and community-based services that an individual needs to avoid institutionalization. Those services are defined in § 440.180 of this subchapter...

The Code of Federal Regulations, 42 CFR § 440.180 provides, in part:

§ 440.180 Home and community-based waiver services.

(a) Description and requirements for services. “Home or community-based services” means services, not otherwise furnished under the State’s Medicaid plan, that are furnished under a waiver granted under the provisions of part 441, subpart G of this chapter.

(1) These services may consist of any or all of the services listed in paragraph (b) of this section, as those services are defined by the agency and approved by CMS.

(2) The services must meet the standards specified in § 441.302(a) of this chapter concerning health and welfare assurances.

(3) The services are subject to the limits on FFP described in § 441.310 of this chapter.

(b) Included services. Home or community-based services may include the following services, as they are defined by the agency and approved by CMS:

(1) Case management services.

(2) Homemaker services.

(3) Home health aide services.

(4) Personal care services.

(5) Adult day health services.

(6) Habilitation services.

(7) Respite care services.

(8) Day treatment or other partial hospitalization services, psychosocial rehabilitation services and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness, subject to the conditions specified in paragraph (d) of this section.

(9) Other services requested by the agency and approved by CMS as cost effective and necessary to avoid institutionalization.

...

## **DISCUSSION**

The Respondent denied the Appellant's request for I/DD Waiver services in excess of his individualized budget. The Appellant contests this decision. The Respondent must show, by a preponderance of the evidence, that it correctly denied the Appellant's request on this basis.

The Appellant is a participant in the I/DD Waiver Program. An assessment process including a structured interview was utilized to determine a budget amount to specifically meet the Appellant's needs. The Appellant was notified of his budget amount. An interdisciplinary team (IDT) for the Appellant met to plan the appropriate use of the Appellant's assigned budget. After initially setting the level of services under that assigned budget, the IDT for the Appellant requested additional services. This service change was a change in the ratio of services provided to the Appellant, from a 1:2 ratio (U2) to a 1:1 (U1) ratio in amounts corresponding to 2,920 units, or two hours per day. The increase in requested U1 units was matched by a decrease in U2 units. The resulting change in proposed units would have resulted in additional costs exceeding the Appellant's individualized budget. Policy requires the Appellant to show that the services are necessary to prevent a risk of institutionalization. The Respondent's reviewing panel must consider factors including feasibility of rearranging services within the member's budget, as well as the reasons provided by the Appellant.

The IDT for the Appellant noted the reasons for the request. They noted the request for a reduced ratio is because the Appellant requires additional staff attention due to his risk of falls and a problematic roommate. No documentation was offered to show that these issues were not being addressed with the current staffing ratios, and corresponding service units, approvable within the Appellant's assigned budget. [REDACTED] testified that the Appellant is a fall risk and noted the Appellant's use of a gait belt. The use of a gait belt both indicates a fall risk and suggests that the fall risk is less than it was before the gait belt was used. Without context, this does not show a need for additional services. No details were offered to show how the Appellant's roommate creates a risk of institutionalization for the Appellant, or how it would not be possible for the Appellant to participate in community activities without approval of the requested staffing ratios and corresponding service units. In the addenda (the Appellant's IDT appeared to have submitted an addendum to the Appellant's IPP, followed by two corrected versions) to the Appellant's IPP, the reason offered for modification was "...fluctuation in staffing and availability." Finally, Respondent testimony revealed the Appellant was not fully utilizing the approved U1 service amounts. If the Appellant has not shown an additional risk of institutionalization while using less than the 10 hours per day of U1 units for which he is currently approved, he has not shown an additional risk if 12 hours per day of U1 units is

not approved. The Appellant did not meet his burden in showing that his request for I/DD Waiver services in excess of his assigned budget was necessary to prevent a risk of institutionalization. The decision of the Respondent to deny additional I/DD services to the Appellant is affirmed.

### **CONCLUSIONS OF LAW**

- 1) Because the Appellant did not show that his request for I/DD Waiver services in excess of his assigned budget was necessary to prevent a risk of institutionalization, the Respondent must deny his request.
- 2) Because the Appellant is not currently utilizing the full amount of services in the requested category (Licensed Group Home Person-Centered Support services in a 1:1 ratio) on a daily basis, and this underutilization has occurred without a demonstrated increase in institutionalization risk, the Appellant has not shown that his request is necessary to prevent the Appellant's institutionalization risk.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's May 15, 2026 decision to deny services provided through the I/DD Waiver Program.

**ENTERED this 19<sup>th</sup> day of August 2026.**

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**Todd Thornton**  
**State Hearing Officer**