



July 20, 2026



RE: [REDACTED] v. WVDHS-BoSS
ACTION NO.: 26-BOR-2003

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,

Eric L. Phillips
Certified State Hearing Officer
Member, State Board of Review

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

cc: Robert Meade, BoSS

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

[REDACTED]

Appellant,

v.

Action Number: 26-BOR-2003

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES
BUREAU FOR SENIOR 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 July 15, 2026, on an appeal filed with the Board of Review on May 21, 2026.

The matter before the Hearing Officer arises from the May 11, 2026, decision by the Respondent to reduce the Appellant's Level of Care under the Aged and Disabled Waiver Program.

At the hearing, the Respondent appeared by Robert Meade, Data Analyst, Bureau of Senior Services. The Appellant was self-represented. Appearing as a witness for the Appellant was [REDACTED]. All witnesses were placed under oath and the following documents were admitted into evidence.

The Department failed to present a medical professional as an expert witness to support its evidence. A post-status hearing conference was scheduled for July 16, 2026, to discuss the Appellant's due process rights in the above matter. The Department failed to appear for the post-status hearing conference. A decision was based on information presented at the July 15, 2026 hearing.

Department's Exhibits:

- D-1 Notice of Decision dated May 11, 2026
- D-2 Bureau of Medical Services Policy Manual 501.12
- D-3 Pre-Admission Screening dated May 28, 2025
- D-4 Aged and Disabled Waiver-Person Centered Assessment dated July 16, 2025
- D-5 Pre-Admission Screening dated May 7, 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 recipient of Aged and Disabled Waiver Services.
- 2) On May 7, 2026, a Pre-Admission Screening (PAS) was completed to reevaluate the Appellant's continued medical eligibility and assess her current level of care (LOC) needs. (Exhibit D-5)
- 3) The Appellant received a total of 23 points on the PAS, attributing to a Level C LOC or 94-124 monthly homemaker service hours. (Exhibit D-6)
- 4) The Appellant was previously assessed at a Level D LOC or 125-155 monthly homemaker services hours on a May 28, 2025 revaluation.

APPLICABLE POLICY

Aged and Disabled Waiver Medicaid Policy Chapter 501.12.1 Medical Criteria details that an individual must have five deficits as described on the PAS to qualify medically for the ADW program. These deficits are derived from a combination of the following assessment elements on the PAS.

Section	Description of Points	
#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) Independently and b) With Supervision are not considered deficits	
#26	Functional abilities of individual in the home	
a.	Eating	Level 2 or higher (physical assistance to get nourishment)
b.	Bathing	Level 2 or higher (physical assistance or more)
c.	Dressing	Level 2 or higher (physical assistance or more)
d.	Grooming	Level 2 or higher (physical assistance or more)
e. f.	Continence, Bowel	Level 3 or higher; must be incontinent

	Continence, Bladder	
g.	Orientation	Level 3 or higher (totally disoriented, comatose)
h.	Transfer	Level 3 or higher (one-person or two-person assistance in the home)
i.	Walking	Level 3 or higher (one-person or two-person assistance in the home)
j.	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 or more of 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	

Aged and Disabled Waiver Policy Manual Chapter 501.12.2.1, Service Level Criteria, documents that there are four service levels for personal attendant services. Points will be determined as follows based on the following sections of the PAS:

Section	Description of Points
#23	Medical Conditions/Symptoms – 1 point for each (can have total of 12 points)
#24	Decubitus - 1 point
#25	1 point for b., c., or d.
#26	Functional Abilities: Level 1 - 0 points Level 2 - 1 point for each item a. through i. Level 3 - 2 points for each item a. through m., i. (walking) must be at Level 3 or Level 4 in order to get points for j. (wheeling) Level 4 – 1 point for a, 1 point for e, 1 point for f, 2 points for g through m
#27	Professional and Technical Care Needs - 1 point for continuous oxygen
#28	Medication Administration - 1 point for b. or c.
#34	Dementia - 1 point if Alzheimer's or other dementia
#35	Prognosis – 1 point if Terminal

The total number of points possible is 44.

Aged and Disabled Waiver Policy Manual Chapter 501.12.2.2 Service Level Range of Hours

Traditional Service Levels

Level	Points Required	Range of Hours Per Month (for Traditional)
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A	5-9	0 – 62
B	10-17	63 – 93
C	18-25	94 – 124
D	26-44	125 – 155

The hours of service are determined by the service level and assessment results of the personal attendant agency RN assessment and Public Partnerships, LLC (PPL) Assessments. Please note, the levels are a range of hours and are to be used to meet everyone's daily needs. Maximum hours are not guaranteed if the need is not identified. If the minimum hours awarded are not being utilized, the reason must be documented in the Service Plan.

DISCUSSION

Policy provides that an ADW Medicaid recipient's level of care is based on the number of points received on a yearly medical evaluation using the PAS assessment tool. The Appellant received a total of 23 service level points as derived from the May 2026 PAS, which qualifies for a Level C LOC, or a maximum of 124 homemaker hours each month.

The Appellant was previously assessed at a Level D LOC, or a maximum of 155 monthly homemaker service hours. The Appellant contests the reduction of her LOC. The Respondent must prove by a preponderance of the evidence that it correctly reduced the Appellant's homemaker service hours.

The Appellant, along with her witness, contend that additional points should have been awarded in the areas of continuous oxygen and wheeling.

Continuous Oxygen-On the May 2026 PAS assessment, the Appellant was awarded zero points for continuous oxygen. The assessment notes that the Appellant reported "oxygen is ordered qHS and daily prn-not is [sic] used during PAS." The Appellant testified that she does utilize four liters of continuous oxygen. [REDACTED] the Appellant's witness, testified that the Appellant utilizes continuous oxygen, but she did not have it in use on the day of the assessment.

Based on evidence, the Appellant reported at the time of the assessment that she had additional oxygen ordered. The Appellant provided credible testimony related to use of oxygen on a continuous period; therefore, an additional point for continuous oxygen **can be** awarded in the contested area.

Wheeling-On the May 2026 PAS assessment, the Appellant was awarded zero points for wheeling. The assessment notes that the Appellant "denies the use of manual wheelchair inside the living environment currently. Appellant stated that the only reason the wheelchair was still in the home was due to a family member needing to use it at this time." The Appellant contends that she utilizes a wheelchair due to her physical limitations related to physical therapy. The Appellant indicated that she requires physical assistance in transferring and dressing. [REDACTED] expounded that the Appellant attempted to utilize a walker to aid in her ambulation but her physical condition limits her ambulation and ability to stand. [REDACTED] indicated that the Appellant is either

“on the couch or in the bed.” Testimony indicated that at the time of the assessment the Appellant utilized a wheelchair “as needed.”

At the time of the assessment, the assessing nurse documented that the Appellant required hands on assistance related to her ability to transfer and ambulate. Regarding walking, the assessing nurse noted that the Appellant reported the use of a walker but “[the Appellant] can barely stand without falling.” At the assessment, the assessing nurse did not observe the Appellant transfer or ambulate. The assessing nurse rated the Appellant’s home functional ability of transferring and walking as a Level 3-One Person Assistance.

Based on evidence, the Appellant provided credible testimony that she utilizes a wheelchair to assist in her ambulation. This testimony coupled with the assessing nurse documenting that the Appellant requires hands on physical assistance to transfer and ambulate further corroborate the Appellant’s need for wheelchair assistance in the home. Therefore, an additional two points **can be** awarded in the area of wheeling.

Based on an evidentiary review, three additional points may be awarded to the PAS; therefore, the Respondent was incorrect in its decision to reduce the Appellant’s homemaker service LOC hours from a Level D to a Level C LOC.

CONCLUSIONS OF LAW

- 1) Service level points for the ADW Program are determined annually using the PAS screening tool.
- 2) The Appellant was awarded a total of 23 points on the May 2026 PAS.
- 3) An additional point can be awarded in the area of continuous oxygen.
- 4) Two additional points can be awarded in the functional ability for wheeling.
- 5) The Appellant meets the medical criteria for Level D LOC (26-44 points) and a 125-155 level of monthly homemaker service hours.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent’s decision to reduce the Appellant’s LOC from a Level D to a Level C LOC.

ENTERED this ____ day of July 2026.

Eric L. Phillips
Certified State Hearing Officer