WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted]

Appellant,

v. **Action Number: 26-BOR-2416**

WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES
BUREAU OF 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 August 24, 2026.

The matter before the Hearing Officer arises from the Respondent's June 24, 2026 decision to deny the Appellant's eligibility for the Medicaid Aged and Disabled Waiver (ADW) program.

At the hearing, the Respondent appeared by Robert Meade, Bureau of Senior Services. Appearing as a witness for the Respondent was Dianna Landess, RN, Acentra (hereafter, Nurse Landess). The Appellant appeared and was self-represented. Appearing as witnesses for the Appellant were [redacted] Care at Home; [redacted] Care at Home; and [redacted] Case Management. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:
D-1 Evidence Packet Exhibit List
Acentra Health notice of Potential Termination, dated July 24, 2026
D-2 Bureau for Medical Services (BMS) Manual Chapter 501 excerpts
D-3 Pre-Admission Screening (PAS) submitted on June 17, 2025
D-4 PAS Summary, submitted on June 17, 2025
D-5 PAS, submitted on June 17, 2026
D-6 PAS Summary

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 previously approved for ADW program eligibility based on deficits identified on a Pre-Admission Screening (PAS) form submitted on June 17, 2025. (Exhibit D-3)

2) On June 17, 2026, a new PAS was completed with the Appellant by Nurse Landess. The Appellant and his roommate, [redacted], were present during the assessment. (Exhibit D-5)

3) At the time of the PAS, the Appellant did not have *skilled needs* or a *decubitus*. (Exhibit D-5)

4) At the time of the PAS, the Appellant reported he could to cut food and feed himself with normal utensils. (Exhibit D-5)

5) At the time of the PAS, the Appellant reported that he could take a shower with a shower chair and grab bars, that he could transfer in and out of the shower/tub, and that he could do all aspects of bathing his body. (Exhibit D-5).

6) At the time of the PAS, the Appellant reported he could independently dress his upper and lower body and apply a shirt overhead. The Appellant reported he did not need assistance for snapping, buttoning, zipping, putting on socks and shoes, buckling, velcroing, and tying shoes. (Exhibit D-5).

7) At the time of the PAS, the Appellant was continent. (Exhibit D-5)

8) At the time of the PAS, the Appellant was oriented. (Exhibit D-5)

9) The PAS narrative in Section 28 *Medications* reflected, "[Appellant] reports that cannot self obtain pills from packaging" (Exhibit D-5)

10) The PAS was reviewed with the Appellant on the day of the assessment.

11) On June 24, 2026, the Respondent, by Acentra Helath, issued a notice advising the Appellant that his eligibility for the ADW program was not approved because the PAS form did not identify deficits in at least 5 of 13 critical areas. According to the PAS, the Appellant was found to have one deficit in the area of *Vacate a Building.* (Exhibit D-1)

12) During the hearing, Nurse Landess stipulated that the Appellant should have received an additional deficit for *grooming* because he needed physical assistance with foot care at the time of the PAS. (Exhibit D-5)

13) According to the notice, the Appellant was instructed, "If you believe you have additional information regarding your medical condition that was not considered, please submit those records to Acentra Health within 2 weeks from the date of this letter." (Exhibit D-1)

14) The notice provided, "If no additional information is received within 2 weeks from the date of this letter, you will receive a final termination notice." (Exhibit D-1).

15) The Appellant did not submit any additional information to the Respondent within two weeks of the June 24, 2026 notice.

APPLICABLE POLICY

Bureau for Medical Services (BMS) Manual § 501.9 ***ADW Program Eligibility*** provides that applications for the ADW program must meet all criteria to be eligible for the program, including being approved as medically eligible for nursing home level of care and in need in services.

BMS § 501.11 ***Medical Eligibility*** provides that the Utilization Management Contractor (UMC) is the entity that is responsible for conducting medical necessity assessments to confirm an applicant's medical eligibility for waiver services.

BMS § 501.11.1 ***Medical Criteria*** provides that an individual must have five deficits as described on the PAS to qualify medically for the ADW program as derived from a combination of the following assessment elements on the PAS:

#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. Continence Bowel: Level 3 or higher; must be incontinent
f. Continence Bladder: Level 3 or higher; must be incontinent
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)
#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 their own medications

DISCUSSION

The Respondent denied the Appellant's application for medical eligibility for the Medicaid ADW program. Pursuant to the PAS, the Appellant was found to have a severe deficit in *vacating a building*. During the hearing, the Respondent's witness stipulated that the Appellant should have received a deficit for *grooming*. The Appellant contested the denial and argued that on his "bad days," the Appellant requires physical assistance in other areas.

During the hearing, [redacted] testified that the Appellant's functioning declined ten days after the PAS was completed. The notice allowed the Appellant an opportunity to submit information regarding his functioning abilities within two weeks of the notice date. During the hearing, the Appellant testified that he did not submit any additional information to the Respondent.

Acentra is the Respondent's Utilization Management Contractor (UMC) responsible for conducting medical necessity assessments, including the PAS, to confirm an applicant's medical eligibility for nursing home level of care. The Board of Review lacks the authority to pass judgement on the Respondent's policy and can only determine if the Respondent acted correctly and followed the policy when determining the Appellant's eligibility for the ADW program.

The UMC can only base eligibility decisions on the information provided during the PAS assessment and a review of supplied. Although testimony was provided regarding the Appellant's decline in functioning after the PAS was completed, the Board of Review can only consider information relevant to the time of the PAS completion.

Pursuant to the policy, applicants for the Medicaid ADW program must meet all given criteria to be eligible for the program. To establish eligibility, the applicant must have five (5) deficits at the time of the PAS to qualify for medical eligibility for the ADW program. The Respondent bears the burden of proof and had to demonstrate by a preponderance of evidence that the Appellant did not have five qualifying deficits at the time of the PAS.

To receive a deficit in the area of *eating*, the Appellant had to require physical assistance to get nutrition. At the time of the PAS, the Appellant was assessed as Level 1, self/prompting in the area of *eating*. During the PAS, the Appellant reported that he had the abilities to cut food and feed himself with normal utensils. As the Appellant did not require physical assistance to get nourishment at the time of the PAS, a deficit could not be awarded in the area of *eating*.

To receive a deficit in the area of *bathing*, the Appellant had to require physical assistance. At the time of the PAS, the Appellant was assessed as Level 1, self/prompting. As the Appellant did not indicate at the time of the PAS that he required physical assistance with *bathing*, a deficit could not be awarded.

To receive a deficit in the area of *dressing*, the Appellant had to require physical assistance. At the time of the PAS, the Appellant was assessed as Level 1, self/prompting. As the Appellant did not indicate at the time of the PAS that he required physical assistance with *dressing*, a deficit could not be awarded.

To receive a deficit in the area of *continence*, the Appellant had to be totally incontinent. At the time of the PAS, the Appellant was assessed as Level 1, continent. No evidence was entered during the hearing to establish that the Appellant should have received a deficit in the area of *continence*.

To receive a deficit in the area of *orientation*, the Appellant had to be totally disoriented or comatose. At the time of the PAS, the Appellant was assessed as Level 1, oriented. As no evidence was submitted to establish that the Appellant was totally disoriented or comatose at the time of the PAS, a deficit cannot be awarded in this area.

To receive a deficit in the areas of *transferring* and *walking*, the Appellant had to require one or two-person physical assistance to transfer or walk. Testimony was provided during the hearing by the Appellant's witnesses that the Appellant required assistive devices for transferring and walking. At the time of the PAS, the Appellant was assessed as Level 2, supervised/assistive device. As there was no evidence submitted to establish that the Appellant required one or two-person assistance to transfer or walk, deficits cannot be awarded in these areas.

To receive a deficit in the area of *wheeling*, the Appellant had to be a level 3 or 4 in walking. No evidence was entered during the hearing to establish that the Appellant should have received a deficit in the area of *wheeling*.

According to the policy, to receive a deficit in *medication administration*, the Appellant had to be incapable of administering his own medication. The PAS reflected that the Appellant reported he was unable to self-obtain pills from packaging. The policy is silent regarding what constitutes ability to self-administer medication. No information was presented during the hearing to clarify how the Appellant's physical inability to remove pills from packaging was ruled out as a qualifying factor. Testimony by the Appellant's witnesses during the hearing affirmed that the Appellant cannot independently remove his medicine from "pill packs." Because the Appellant was physically unable to independently self-obtain pills, he should have received a deficit in this area at the time of the PAS.

Pursuant to the PAS, the Appellant did not have skilled needs or a decubitus at the time of the PAS. No evidence was offered during the hearing to establish that the Appellant should have been awarded a deficit for *skilled needs* or *decubitus*.

Although the preponderance of evidence revealed the presence of deficits in the areas of *vacating a building, grooming,* and *medication administration*, the policy requires the presence of severe deficits in five functioning areas. As the evidence did not reveal the presence of five areas of severe functioning deficits at the time of the PAS, the Appellant's ADW eligibility cannot be approved. During the hearing, the Respondent's representative advised that if changes in the Appellant's functioning have occurred since the PAS, that a new PAS may be completed to assess future ADW eligibility.

CONCLUSIONS OF LAW

1) To qualify for the Medicaid ADW program, the preponderance of evidence had to demonstrate that the Appellant had five qualifying functional deficits at the time of the PAS.

2) The preponderance of evidence demonstrated that the Appellant had deficits in *vacating a building*, *grooming*, and *administering medications* at the time of the PAS.

3) Because the evidence did not reveal the presence of five qualifying deficits at the time of the PAS, the Respondent correctly denied the Appellant's medical eligibility for the ADW program.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's eligibility for the ADW program.

ENTERED this 2nd day of September 2026.

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Tara B. Thompson, MLS
Certified State Hearing Officer