WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted]

Appellant,

v. **Action Number: 26-BOR-2764**

WV 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] 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 October 20, 2026.

The matter before the Hearing Officer arises from the August 3, 2026 decision by the Respondent to deny the Appellant's application for Long-Term Care (LTC) Medicaid benefits.

At the hearing, the Respondent appeared by Terry McGee, Program Manager-Bureau for Medical Services. Appearing as a witness for the Respondent was Melissa Grega, RN, Acentra. The Appellant was self-represented. All witnesses were placed under oath, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated August 3, 2026
- D-2 Acentra Health Chapter 514 Nursing Facility Services, §514.5.3
- D-3 Pre-Admission Screening dated July 31, 2026
- D-4 Pre-Admission Screening signature pages; [redacted] Healthcare Center Progress Notes "NEW" date of service July 10, 2026; [redacted] Healthcare Center Order Summary Report, Order Category Pharmacy, as of July 31, 2026

Appellant's Exhibits:

- A-1 *Not entered into evidence as is duplicate of D-3
- A-2 *Not entered into evidence as is duplicate of D-1
- A-3 [redacted] Healthcare Center Change in Condition Evaluation, effective September 25, 2026

A-4 [redacted] Healthcare Center Fall Risk Observation Tool, effective August 27, 2026
A-5 [redacted] Healthcare Center Physical Therapy Evaluation and Plan of Treatment
A-6 [redacted] Healthcare Center Radiology Result Reports, exam date July 27, 2026
A-7 [redacted] Healthcare Center Lab Results, August 17, 2026
A-8 Consultation Report, July 23 and September 23, 2026
A-9 [redacted] Healthcare Center Progress Notes, July 28 through October 2, 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 is a resident of [redacted] Healthcare Center.

2) On July 31, 2026, the Pre-Admission Screening (PAS), a requirement to determine medical eligibility for LTC Medicaid assistance, was conducted by [redacted] D.O. (Exhibits D-3 and D-4)

3) The Respondent issued the Appellant a Notice of Decision on August 3, 2026, informing him that Long-Term Care (Nursing Facility) Admission was denied. (Exhibit D-1)

4) The Notice states that three (3) deficits were awarded to the Appellant in the functional areas of *Medication Administration, Bathing, Dressing,* and *Emergency Assistance/Vacating*. (Exhibit D-1)

APPLICABLE POLICY

BMS Manual, Chapter 514, §514.5.3 Medical Eligibility Regarding the Pre-Admission Screening, in part:
To qualify medically for the nursing facility Medicaid benefit, an individual must need direct nursing care 24 hours a day, seven days a week. The BMS has designated a tool known as the Pre-Admission Screening (PAS) form (Appendix B) to be utilized for physician certification of the medical needs of individuals applying for the Medicaid benefit.

An individual must have a minimum of five deficits identified on the PAS. These deficits will be determined based on the review by a BMS/designee in order to qualify for the Medicaid nursing facility benefit.

These deficits may be any of the following (numbers represent questions on the PAS form

- #24: Decubitus – Stage 3 or 4
- #25: In the event of an emergency, the individual is mentally or physically unable to vacate a building. Independently and with supervision are not considered deficits.
- #26: Functional abilities of the individual in the home.
    - Eating: Level 2 or higher (physical assistance to get nourishment…)
    - Bathing: Level 2 or higher (physical assistance or more)
    - Grooming: Level 2 or higher (physical assistance or more)
    - Dressing: Level 2 or higher (physical assistance or more)
    - Continence: Level 3 or higher (must be incontinent)
    - Orientation: Level 3 or higher (totally disoriented, comatose)
    - Transfer: Level 3 or higher (one person or two person assist in the home)
    - Walking: Level 3 or higher (one person assistance in the home)
    - Wheeling: Level 3 or higher
- #27: Individual has skilled needs in one of these areas: suctioning, tracheostomy, ventilator, parenteral fluids, sterile dressings, or irrigations
- #28: Individual is not capable of administering his/her own medications

This assessment tool must be completed, signed and dated by a physician. The physician's signature indicates "to the best of my knowledge, the patient's medical and related needs are essentially as indicated." It is then forwarded to the BMS or its designee for medical necessity review. The assessment tool must be completed and reviewed for every individual residing in a nursing facility, regardless of the payment source for services.

DISCUSSION

The Appellant is currently a resident of [redacted] Healthcare Center (WTHC) who underwent an assessment on July 31, 2026. The findings from this assessment were recorded on a Pre-Admission Screening (PAS) document completed by a physician from the facility, [redacted]. This document was reviewed by the Respondent's assessing nurse to determine the number of deficits that meet the LTC Medicaid policy severity criteria for medical eligibility. Five deficits are required to establish medical eligibility for LTC Medicaid. The Appellant was assessed with four substantial deficits in the areas of Medication Administration, Dressing, Bathing, and Emergency Assistance/Vacating.

On August 3, 2026, the Respondent issued the Appellant notification that his application for LTC Medicaid was denied based on not meeting at least five areas of care needs (deficits) that meet the severity criteria for eligibility.

Medical eligibility for Long-Term Care Medicaid assistance is established when an individual requires direct nursing care twenty-four hours a day, seven days a week and has a minimum of five deficits identified on the PAS. The Appellant appealed the Respondent's decision to deny medical eligibility, stating that he should have been awarded deficits in the areas of grooming and walking. The Respondent must show by a preponderance of evidence that the Appellant did not meet the medical criteria in at least five areas of need.

At the time of the July 31, 2026 PAS, the Appellant was found to have a Level 1 (self/prompting) in the area of Grooming. In order to meet the severity criteria for a deficit in the area of Grooming, the Appellant must have had to meet a Level 2 or higher (physical assistance or more). The Appellant testified that he now experiences numbness in his hands and feet and cannot grip anything. The Appellant's testimony indicated that this was a new occurrence. The submitted documentation did not show that the Appellant needed physical assistance with grooming at the time of the July PAS.

The Appellant also testified that he cannot walk on his own and that he needs someone to walk with him to the shower or bathroom. The Appellant's testimony indicated that he requires supervision while walking. In reviewing the submitted documentation, the Appellant's Exhibit A-4, dated August 27 2026, (which was after his July 2026 PAS and was not part of the Respondent's review in the August 3, 2026 application denial) corroborates the findings of the July 2026 PAS. The Exhibit A-4 documents that the Appellant does not need assistance transferring and can ambulate without assistance. The reviewing nurse, Melissa Grega, testified that in order to be considered a Level 3 in walking, the individual must not be able to walk on his/her own. Although the documentation showed that the Appellant has issues with balance while walking and experiences recurrent falls, and does use an assistive device to ambulate, it suggests that the Appellant was correctly assessed as a Level 2 (supervised/assistive device) in the area of walking. In order to meet the severity criteria for a deficit in the area of walking the Appellant must meet a Level 3 or higher (one person assist in the home). The Appellant did not establish that a deficit should have been awarded in the area of walking.

During the hearing, it was noted that the Appellant is on continuous oxygen. However, per policy, this does not qualify as a deficit under Professional and Technical Care Needs. Nurse Grega explained that per policy the identified professional/technical care needs only included the areas of suctioning, tracheostomy, ventilator, parenteral fluids, sterile dressing or irrigations. The Appellant does not have any professional/technical are needs in those areas.

Based on an evidentiary review, no additional deficits were identified for program eligibility. The Appellant failed to meet the medical eligibility criteria of at least five required deficits in the area of care needs. Because the Appellant does not meet the medical eligibility criteria for LTC Medicaid, the Respondent's decision to deny his LTC Medicaid application is affirmed.

CONCLUSIONS OF LAW

1) An individual must have a minimum of five (5) deficits identified on the PAS to be determined medically eligible for the Long-Term Care Medicaid program.

2) The Appellant was awarded four deficits on the PAS assessment completed July 31, 2026 in the areas of Medication Administration, Bathing, Dressing, and Requires Emergency Assistance/Vacating.

3) No additional deficits were established at the hearing.

4) The Appellant does not meet the medical eligibility requirements for Long-Term Care Medicaid assistance.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's medical eligibility for Long-Tem Care Medicaid.

ENTERED this 21st day of October 2026.

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Lori Woodward, Certified State Hearing Officer