



May 22, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-2033

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 assure 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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Connie Sankoff, BoSS

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

██████████,

Appellant,

v.

Action Number: 24-BOR-2033

**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 ██████████. 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 May 21, 2024.

The matter before the Hearing Officer arises from the April 1, 2024, decision by the Respondent to terminate Aged/Disabled Waiver Medicaid benefits.

At the hearing, the Respondent appeared by Connie Sankoff, RN, Bureau of Senior Services. Appearing as a witness for the Respondent was Cheryl Shaffer, RN, Acentra. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████

██████████ All witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Bureau for Medical Services Provider Manual Chapters 501, 501.9, 501.10, and 501.12
- D-2 Fair Hearing Request form submitted on April 22, 2024
- D-3 Aged and Disabled Waiver Program Medical Necessity Evaluation Request dated January 4, 2023
- D-4 Pre-Admission Screening (PAS) Form dated March 9, 2023
- D-5 PAS Summary dated March 9, 2023
- D-6 PAS Form completed on March 12, 2024

- D-7 PAS Summary dated March 12, 2024
- D-8 Potential Termination Notice dated March 13, 2024
- D-9 Notice of Decision: Final Termination dated April 1, 2024*
- D-10 Letter from [REDACTED] dated April 15, 2024

** The Final Termination Notice entered as evidence by the Respondent contains typed “x” indicators revealing that deficits were identified in the functional areas of vacating a building and continence. While it appears that “x” marks were handwritten in additional functional areas on the Notice entered as evidence, the Final Termination Notice submitted with the Fair Hearing Request shows only typed “x” indicators in the areas of vacating and continence. The Appellant’s witnesses indicated that the handwritten “x” marks on the copy of the letter entered as evidence may have been made by them upon receipt of the Notice.*

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, age 79, was a recipient of Aged/Disabled Waiver Medicaid Program benefits.
- 2) The Respondent completed a Pre-Admission Screening (PAS) for the Appellant on March 12, 2024, to assess the Appellant’s continued medical eligibility for the program (Exhibit D-6).
- 3) The PAS completed on March 12, 2024, reveals that the Appellant has deficits in the functional areas of vacating a building and continence (Exhibits D-6 and D-7).
- 4) The Respondent issued a Potential Termination Notice to the Appellant on March 13, 2024, indicating that she had two weeks to provide additional information to dispute the PAS findings (Exhibit D-8).
- 5) The Respondent issued a Notice of Decision: Final Termination to the Appellant on April 1, 2024 (Exhibit D-9).

APPLICABLE POLICY

Bureau for Medical Services Provider Manual Chapter 501.12.1, Medical Criteria, provides 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, not meal preparation)
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 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 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	

DISCUSSION

Policy states that an individual must receive five deficits on the PAS assessment to meet medical eligibility criteria for the Aged/Disabled Waiver Medicaid Program.

The Appellant received two deficits on her March 12, 2024, PAS in the functional areas of vacating a building and continence.

During the hearing, the Appellant testified that she tends to overstate her abilities at times because she has difficulty admitting that she is aging and does not wish to admit weaknesses. The Appellant stated that she does not currently require physical assistance with bathing, dressing, or grooming, but she and her witnesses indicated that it would be helpful to have a care provider in the apartment with her when bathing due to a risk of falls. The Appellant's witnesses stated that she requires reminders to take her medication and needs assistance with food preparation/putting foods away after eating. The Appellant indicated that she also needs assistance with transportation and getting groceries. [REDACTED] Registered Nurse with [REDACTED] testified that the

Appellant could use assistance with bathing and cutting up foods; however, the Appellant reported during the PAS assessment that she could cut foods unassisted and could wash her entire body independently.

As no additional deficits can be identified for the Appellant based on information provided during the hearing, the Respondent's decision to terminate Aged/Disabled Waiver Medicaid benefits based on medical ineligibility is affirmed.

CONCLUSIONS OF LAW

- 1) To qualify medically for the Aged/Disabled Waiver Medicaid Program, an individual must have five identified functional deficits on the PAS assessment.
- 2) The Appellant had two identified functional deficits on her March 12, 2024, PAS assessment.
- 3) No additional functional deficits could be identified for the Appellant based on information provided during the hearing.
- 4) As the Appellant lacks the five functional deficits required to establish medical eligibility, the Respondent's decision to terminate Aged/Disabled Waiver Medicaid benefits is correct.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to terminate Aged/Disabled Waiver Medicaid benefits.

ENTERED this 22nd day of May 2024

**Pamela L. Hinzman
State Hearing Officer**