



September 26, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS  
ACTION NO.: 24-BOR-3024

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 people 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-3024**

**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 September 24, 2024.

The matter before the Hearing Officer arises from the July 11, 2024, decision by the Respondent to deny the Appellant's application for Personal Care Services.

At the hearing, the Respondent appeared by Connie Sankoff, Registered Nurse, Bureau of Senior Services. Appearing as a witness for the Respondent was Kaitlyn Flanagan, Registered Nurse/Clinical Assessor, KEPRO. The Appellant was present and was represented by ██████████, friend of the Appellant. Appearing as a witness for the Appellant was ██████████, friend of the Appellant. All witnesses were sworn, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Bureau for Medical Services Provider Manual Chapter 517.13
- D-2 Medical Necessity Evaluation Request dated June 13, 2024
- D-3 Pre-Admission Screening (PAS) dated July 9, 2024
- D-4 PAS Summary dated July 9, 2024
- D-5 Notice of Denial dated July 11, 2024
- D-6 Request for Hearing received by Respondent on August 19, 2024
- D-7 Scheduling Order dated August 27, 2024

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 applied for benefits under the Personal Care Services (PCS) Program.
- 2) The Respondent, via KEPRO, completed a Pre-Admission Screening (PAS) for the Appellant on July 9, 2024, to evaluate the Appellant’s medical eligibility for Personal Care Services (Exhibit D-3).
- 3) The Respondent determined that the Appellant was not medically eligible for Personal Care Services.
- 4) The Appellant received two (2) deficits on the PAS based on her reported functional abilities on the date of the assessment (Exhibit D-3).
- 5) The Respondent established deficits for the Appellant in the functional areas of physical assistance with eating and bladder continence.
- 6) At least three (3) deficits in functional areas are required to establish medical eligibility for Personal Care Services (Exhibit D-1).
- 7) The Respondent informed the Appellant that her PCS application was denied in a Notice of Decision dated July 11, 2024 (Exhibit D-5).

**APPLICABLE POLICY**

Bureau for Medical Services (BMS) Provider Manual Chapter 517.13.5, Medical Criteria (D-1), states:

An individual must have three deficits as described on the PAS Form to qualify medically for the Personal Care Program. These deficits are derived from a combination of the following assessment elements on the PAS. The UMC RN will use Center for Disease Control (CDC) guidelines for age appropriate developmental milestones as criteria when determining functional levels and abilities for children.

Section	Observed Level	
#26	Functional abilities of individual in the home	
a.	Eating	Level 2 or higher (physical assistance to get nourishment, not 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.	Continenence, Bowel	Level 3 or higher (must be incontinent)
f.	Continenence, Bladder	
g.	Orientation	Level 3 or higher (totally disoriented, comatose).
h.	Transferring	Level 3 or higher (one-person or two-person assistance in the home)
i.	Walking	Level 3 or higher (one-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.)

An individual may also qualify for Personal Care Services if he/she has two functional deficits identified as listed above (items refer to PAS) and any one or more of the following conditions indicated on the PAS:

Section	Observed Level
#24	Decubitus; Stage 3 or 4
#25	In the event of an emergency, the individual is Mentally unable or Physically unable to vacate a building. Independently or With Supervision are not considered deficits.
#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 have three (3) deficits as described on the PAS Form to qualify medically for the Personal Care Services Program. Two (2) functional deficits were identified for the Appellant during a PAS completed in July 2024.

During the hearing, the Appellant’s representative, [REDACTED], testified that the Appellant would be unable to perform many functional tasks if she was experiencing a “psychotic break.” [REDACTED] contended that the Appellant would be unable to bathe, dress, and groom herself, and would require prompting to eat and drink. The Appellant would likely be unable to awaken to vacate the building in the event of an emergency. In addition, [REDACTED] indicated that the Appellant would need assistance with transferring and walking on “bad days.” The Appellant, who has bipolar disorder and has been prescribed psychotropic medications, has been hospitalized at [REDACTED] mental health facility on a few occasions. [REDACTED] testified that the Appellant’s son left for college and is no longer in the home regularly, and the Appellant is currently receiving personal care as a private pay client.

Kaitlyn Flanagan, the Registered Nurse who completed the July 2024 PAS, indicated that information about the Appellant’s needs during potential “psychotic breaks” was not reported during the assessment, although PAS notes reflect that the Appellant has a history of mental health issues. The Appellant denied a need for assistance with vacating, and also denied a need for assistance with bathing, dressing, and grooming during the PAS. The Appellant was alert and oriented during the PAS and walked/transferred independently throughout the home. The Appellant

reported that she was having a “fair day” on the date of the PAS, according to notations on the assessment form.

Connie Sankoff, Registered Nurse with the Bureau of Senior Services, testified that the Appellant can reapply for the PCS Program at any time.

As no information was provided to the assessing nurse about the Appellant’s functional abilities during potential “psychotic breaks,” the Respondent’s decision to deny Personal Care Services is affirmed.

### **CONCLUSIONS OF LAW**

- 1) To qualify for Personal Care Services, an individual must demonstrate three (3) functional deficits on the PAS assessment.
- 2) The Appellant was awarded two (2) functional deficits on her July 2024 PAS.
- 3) Information concerning the Appellant’s functionality during potential psychotic episodes was not provided to the assessing nurse in July 2024.
- 4) The Respondent acted correctly in denying the Appellant’s PCS application because she lacked the required three (3) deficits to establish medical eligibility on the July 2024 PAS.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent’s action to deny the Appellant’s application for Personal Care Services.

**ENTERED this 26th day of September 2024**

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**Pamela L. Hinzman  
State Hearing Officer**