



February 12, 2025

[REDACTED]

RE: [REDACTED] v. WVDohS
ACTION NO.: 24-BOR-3917

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: Gary Michels, Esq., Office of Attorney General
Connie Sankoff, BoSS

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-3917

**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 February 4, 2025.

The matter before the Hearing Officer arises from the decision by the Respondent to deny Aged/Disabled Waiver Medicaid benefits for the period of August 1, 2024, to September 23, 2024.

At the hearing, the Respondent was represented by Gary Michels, Esq., Office of Attorney General. Appearing as witnesses for the Respondent were Connie Sankoff, RN, Bureau of Senior Services, and Luann Summers, Aged/Disabled Waiver Program Manager, Bureau for Medical Services. The Appellant was represented by her son, ██████████. All witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Bureau for Medical Services (BMS) Request for Hearing, letter from ██████████ dated December 20, 2024, and Electronic Mail Transmissions regarding case
- D-2 Hearing Scheduling Order dated January 8, 2025
- D-3 Bureau for Medical Services Provider Manual Chapter 501
- D-4 Letter from ██████████ dated January 10, 2025

- D-5 Member Enrollment Confirmation Notice dated September 19, 2024
- D-6 Excerpts from December 23, 2024, electronic mail transmissions of [REDACTED] regarding Appellant's case
- D-7 KEPRO Initial Notice of Decision dated August 28, 2024

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, through her son [REDACTED], completed an application for Medicaid benefits and Aged/Disabled Waiver (ADW) Program services on or about July 9, 2024 (Exhibit D-6).
- 2) The Respondent determined that the Appellant was financially eligible for Medicaid benefits effective August 1, 2024; however, the Appellant was required to undergo a Pre-Admission Screening (PAS) to determine medical eligibility for the ADW Program.
- 3) KEPRO, a contracted agency that completes medical assessments for the ADW Program, conducted a PAS for the Appellant on August 27, 2024 (Exhibit D-1).
- 4) KEPRO sent the Appellant an Initial Notice of Decision on August 28, 2024, indicating that she was medically eligible for ADW services and that the local DoHS office had determined that she was financially eligible (Exhibit D-7).
- 5) [REDACTED] contacted the Department's Economic Service Worker on September 18, 2024, to determine the status of the Appellant's ADW benefits (Exhibit D-1).
- 6) On September 19, 2024, the Appellant was enrolled for participation in the ADW Program.
- 7) The Respondent sent the Appellant a Member Enrollment Confirmation Notice on September 19, 2024. The Notice states that "to become enrolled and receive services with the Aged and Disabled Waiver Program, the Bureau of Senior Services will verify financial and coverage coding eligibility for West Virginia Medicaid. Services cannot be provided until these verifications have been completed and you have been enrolled by the West Virginia Bureau of Senior Services" (Exhibit D-5).
- 8) A [REDACTED] nurse completed a Service Plan for the Appellant's ADW benefits on September 23, 2024 (Exhibit D-4).

- 9) The Appellant seeks payment of ADW services rendered during the period of August 1, 2024, to September 23, 2024.

APPLICABLE POLICY

Bureau for Medical Services Provider Manual Chapter 501.29, Payments and Payment Limitations, states that Aged/Disabled Waiver providers must comply with the payment and billing procedures and requirements described in Chapter 600, Reimbursement Methodologies of the BMS Provider Manual.

No ADW Services may be charged while an individual is an inpatient in a nursing home, hospital, rehabilitation facility or other inpatient medical facility, except for personal attendant services. Personal attendant services may be provided on the day of admission and the day of discharge.

For active ADW members, 30 days prior to discharge from one of these programs, case management services may be billed to plan the member's discharge to ensure services are in place.

Reimbursement for ADW services cannot be made for:

- Services provided outside a valid Service Plan.
- Services provided when medical and/or financial eligibility has not been established.
- Services provided when there is no Service Plan.
- Services provided without supporting documentation.
- Services provided by unqualified staff.
- Services provided outside the scope of the service definition; and
- Services that exceed service limits.

West Virginia Income Maintenance Manual Chapter 24.7.1.G states that the beginning date of medical eligibility for the ADW Program is:

- The first day of the month that the client is financially eligible and the Worker receives notice that the client is medically-eligible and awarded a funded slot for waiver services; or
- The first day of the month in which the individual is eligible for payment of ADW services after a transfer of resources penalty expires. See Section 24.29.

West Virginia Income Maintenance Manual Chapter 24.37.2 A.4 addresses Step 1 in the ADW application process and states:

If the client is determined financially eligible for the ADW:

- The Worker confirms the pending ADW category. Financial eligibility for the ADW category is pended up to 90 days in the data system awaiting verification of medical eligibility and availability of a funded ADW slot. The client is notified by a system generated letter.

- The Worker checks the box on the yellow DHS-2.FRM indicating the client is financially eligible and faxes the form back to the UMC. This will initiate medical eligibility to be determined by the UMC.

West Virginia Income Maintenance Manual Chapter 24.37.2 B addresses Step 2 in the ADW application process and states:

The white DHS-2.FRM, along with the Notice of Decision letter, confirms to the Worker the client was determined medically-eligible and awarded a funded slot for the ADW program. The white DHS-2.FRM originates from a case management agency if the client chooses the traditional service delivery model, or from the Bureau of Senior Services (BoSS) if the client chooses the personal options delivery model.

West Virginia Income Maintenance Manual Chapter 24.40 states:

Medical necessity is determined by the Bureau for Medical Services (BMS) Utilization Management Contracted agency (UMC). When the UMC sends the white DHS-2.FRM, along with the Notice of Decision letter, medical necessity is presumed to be determined. The Worker has responsibility in this process to obtain the letter from the UMC as verification of medical eligibility at application and redetermination. The BMS, UMC, or case manager notifies the Worker when a client no longer meets medical necessity criteria for Aged and Disabled Waiver services.

DISCUSSION

Policy states that individuals cannot be reimbursed for ADW Program services provided when there is no ADW Service Plan.

██████████ testified that he did not receive information from the Respondent about the status of his mother's ADW application for almost a month following her PAS assessment. He indicated that he contacted the Economic Service Worker on September 18, 2024, to determine the status of the benefits and that the worker obtained a copy of the medical eligibility determination at that time. ██████████ stated that two Department workers and a third individual familiar with the program had informed him that the Appellant's ADW benefits would be backdated to August 1, 2024. ██████████ testified that he and his brothers have been paying privately for his mother's care since her resources were exhausted and that they owe her care agency around \$6,100 for services provided in August and September 2024.

Connie Sankoff, Registered Nurse with the Bureau of Senior Services, contended that ██████████ was informed on several occasions that ADW coverage could not be backdated to August 1, 2024.

As the Appellant did not have an ADW Service Plan until September 23, 2024, ADW services rendered prior to that date cannot be reimbursed. Therefore, the Respondent's decision to deny backdated ADW Medicaid payments to August 1, 2024, cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Reimbursement cannot be made for ADW services provided when there is no ADW Service Plan.
- 2) The Appellant's ADW Service Plan was completed on September 23, 2024.
- 3) The Appellant is ineligible for reimbursement of ADW services rendered prior to September 23, 2024.
- 4) The Respondent's decision to disallow reimbursement of ADW service payments to August 1, 2024, is correct.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to disallow reimbursement of ADW service payments to August 1, 2024.

ENTERED this 12th day of February 2025.

**Pamela L. Hinzman
State Hearing Officer**