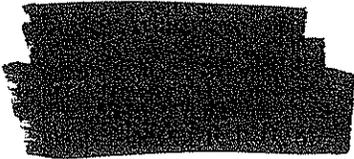


STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
APPEALS OFFICE
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Docket # 14-280
Hearing Date: 04/10/14

Date: June 9, 2014



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided in against you. During the course of the proceeding, the following issue(s) were the matters before the hearing.

THE DHS POLICY MANUAL: Medical Assistance
SECTION: 0399.12.02 Criteria for Assisted Living Waiver

The facts of your case, the agency policy, and the complete administrative decision made in this matter follow. Your rights to Appeal of this decision are found on the last page of this decision.

Present at the hearing were you and Agency Representative: Laurie Johnson, RN.

Copies of this decision have been sent to the following: You, Laurie Johnson and The Policy Unit.

ISSUE: Does the appellant meet the Preventative Level of Care criteria for the Assisted Living Waiver?

DHS POLICIES:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy and Provider Manuals.

APPEAL RIGHTS

Please see attached **NOTICE OF APPELLATE RIGHTS** at the end of this decision.

DISCUSSION OF THE EVIDENCE:

The agency representatives testified that:

- The Agency received a request for Assisted Living Waiver on December 10, 2013
In order to meet the level of care requirement for Assisted Living an individual must meet the high LOC (Level of Care) criteria.
- You need to have a chronic illness or disability that requires a minimum: Supervision with two or more activities of daily living (ADL's) - such as, bathing, eating, dressing, toileting, or ambulation/transfers or extensive assistance with at least 3 instrumental activities of daily living (IADLs) such as meal preparation, laundry, shopping, and cleaning.
- There must be no other person or Agency available to help with these things.
- The criteria are based on a physician or other licensed practitioner's assessment and the DHS caseworker or nurse's assessment.
- The records reviewed were one provider medical statements filled out by the primary care physician a case management assessment and a summary sheet.
- The appellant's diagnoses were Hypertension, Major Depressive Disorder, Gerd, PTSD, Osteoarthritis and Migraine.
- The provider medical statement indicated the appellant was independent in all ADLs.
- She needs extensive assistance with medication management, shopping and is total assistance for laundry.
- She can go out unaccompanied.
- The case management assessment completed on 8/1/13 indicated that she lives with others and agrees that she is completely independent with ADLs. She needs extensive assistance with shopping and laundry.
- After the review of objective medical evidence the Office of Medical Review determined that the appellant did not meet the Preventative level of Care.

The appellant testified:

- The appellant has constant back pain.
- She is legally blind in one eye.

- When she gets depressed she just sleeps.
- She does take her medication.
- She goes to clinic three days a week.
- She gets transportation through insurance
- She lives with a friend.
- She has trouble cooking. She sits to cook.
- She gets muscle spasms and has arthritis in knees.
- She stays in bed if she has a migraine. She has a migraine every couple of days.
- She is taking Neurontin.

FINDINGS OF FACT:

- The appellant applied for services on December 10, 2013.
- The Agency found the appellant did not meet the Level of Care requirements for the Assisted Living waiver and sent a notice on December 12, 2013.
- The appellant filed for an appeal.
- Hearing was held April 4, 2014.
- Record of hearing was held open for two weeks per appellant's request, to produce further medical records.
- The appellant requested and was granted an extension until June 1, 2014.
- The record of hearing closed on June 1, 2014.

- No new evidence was provided while the record remained open.

CONCLUSION:

The issue to be decided is whether the appellant is eligible for the Preventative Level of Care.

A review of Agency Policy reveals that the authority for the State of Rhode Island to provide home and community-based services transitions from the authority found in 1915(c) of the Social Security Act to that found in Section 1115 of the Act on July 1, 2009. The transition in authority allows the State to implement new needs-based levels of care, expand the number of individuals that can access long-term care services, and increase the availability of home and community-based services. The Global Waiver authorizes the state to offer an array of home and community-based services to beneficiaries as an alternative to institutionalization. Home and community-based long-term care services and supports (HCB/LTC Services) are in addition to the services otherwise provided under the Medicaid program. To achieve the goal of rebalancing the long-term care system, the Global Consumer Choice Compact Waiver allows beneficiaries to obtain the Medicaid services they need in the most appropriate least restrictive setting. The types of long-term care available to beneficiaries are categorized as institutional and home and community-based. To qualify for Medicaid-funded long-term care services under the Global Waiver, a person must meet the general and financial eligibility requirements as well as meet certain clinical eligibility criteria. Clinical eligibility is determined by an assessment of a beneficiary's level of care needs. Preventive need beneficiaries are those who do not yet need LTC but are at risk for the NF level of care, have access to services targeted at preventing admission, re-admissions or reducing lengths of stay in a skilled nursing facility. Core home and community-based services are not available to beneficiaries with this level of need.

To make the final determination of care needs, the results of this assessment are mapped against the needs-based and institutional level of care criteria. In addition to being eligible for Medicaid, an individual must meet the Preventive Level of Care criteria. It includes having a chronic illness or disability that requires, at a minimum: Supervision with 2 or more activities of daily living (ADL's) - such as, bathing, eating, dressing, toileting, and ambulation/transfers or Extensive or greater assistance with at least 3 instrumental activities of daily living (IADLs) such as meal preparation, laundry, shopping, and cleaning. There must be no other person or agency available to perform these services. The criteria will be based on (1) a physician or other licensed practitioner's assessment and a DHS caseworker or EOHHS' nurse's assessment.

In this case the Agency testified that they relied upon a statement from the appellant's primary care physician, a case management assessment and a physician's summary sheet. All records indicated that the appellant was independent with all activities of daily living and needed help with cleaning and laundry. The appellant testified that she lives with friends who help with cooking and cleaning and that she gets transportation through her insurance. The Agency testified that the appellant did not meet the criteria for the Preventative Level of Care.

The appellant testified that she gets migraines frequently and has pain in her knees which prevents her from doing her cleaning. She did state that she takes her medication and has transportation to see her doctors. She also testified that she can do her Activities of Daily Living by herself.

The appellant did testify that she now gets frequent migraines and has started to take Neurontin. She stated that having these migraines is why she needs further help with cooking, cleaning and shopping. She indicated that she would get further medical records from her neurologist; however even though the record of hearing was held open and she was also given an extension to produce these records , no new evidence was provided while the record remained open.

Although the appellant's doctors wrote what she was treated for they did not speak to functional limitations that would meet the criteria.

In summary there is no objective medical evidence that indicates the appellant meets the criteria for the Preventative Level of Care.

After careful and considerate review of the Agency's policies as well as the evidence and testimony submitted, this Appeals Officer finds that appellant does not meet the criteria for the Preventative Level of Care; therefore her request for relief is denied.



Geralyn B Stanford
Appeals Officer