



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

L.M.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 14597-14

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence, the entire contents of the OAL case file, and Petitioner's exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 25, 2015, in accordance with N.J.S.A. 52:14B-10, which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on May 11, 2015.

Based upon my review of the record, I hereby ADOPT the findings, conclusions and recommended decision of the Administrative Law Judge in their entirety and incorporate the same herein by reference.

I agree with the Administrative Law Judge that the credible evidence in this record indicates that Petitioner does not satisfy the clinical eligibility criteria necessary to qualify for adult day health services (ADHS) pursuant to N.J.A.C. 8:86-1.5.

Petitioner argues that medical day care is appropriate based on her primary care physician's prescription for ADHS based upon blood pressure and medication monitoring. Petitioner also argues that medical day care is appropriate because she needs assistance with ambulation, transfers, bed mobility and meals. Petitioner contends that her need for help with transfer and ambulation satisfies the requirement for "limited assistance in a minimum of two ADL's" necessary to qualify for attendance at an adult medical day care center. I disagree.

There is simply insufficient evidence that Petitioner needs the type of hands-on assistance with ADLs contemplated by the ADHS regulations. During the assessment, a Horizon Blue Cross Blue Shield of New Jersey¹ nurse observed L.M. ambulating and transferring independently with the assistance of a cane. Furthermore, Petitioner's primary care physician prescribed the day care services for purposes of monitoring her blood pressure and medication. Petitioner's need for blood pressure monitoring and medication administration is not a skilled service requiring attendance at adult medical day care.

¹ Horizon Blue Cross Blue Shield of New Jersey is a contract vendee of the Division of Medical Assistance and Health Services administering the Adult Day Health Services and the Personal Care Assistance Services.

Pursuant to N.J.A.C. 8:86-1.2, skilled services “means needed skilled services provided by an RN or a licensed practical nurse, including but not limited to: . . . (3). Nurse monitoring (for example, medication administration, pacemaker checks, or the monitoring of urinary output, unstable blood glucose or unstable blood pressure that requires physician and/or advanced practice nurse intervention) . . .” (emphasis added). Medication administration is defined as a procedure in which prescribed medication is given to a beneficiary by an authorized person. The procedure includes removing an individual dose from a properly labeled container, verifying it with the doctor’s orders, giving the dose to the beneficiary, making sure the beneficiary takes it, and recording the required information, including the method of administration. Additionally, after the medication has been given, the registered nurse shall assess the beneficiary for any side effects or change in the individual’s ability to maintain the medication regimen. See N.J.A.C. 8:86-1.2.

In this case, no evidence was presented establishing that Petitioner requires a registered nurse to verify her medications with her doctor’s orders, give the individual doses to her, or record the required information on a daily basis. Additionally, no evidence was presented to suggest that Petitioner requires a registered nurse to monitor her medications to assess her for possible side effects or a change in her ability to maintain the medication regimen. Rather, the evidence presented at the hearing shows that Petitioner is able to fully self-administer her medication.

Additionally, there is insufficient evidence that Petitioner had unstable blood pressure that required physician intervention. As noted in the Initial Decision, the records presented at the hearing show that Petitioner’s blood pressure levels were stable and within the range identified by her doctor. Indeed, no testimony or records

were presented showing any medical intervention by Petitioner's physician concerning her blood pressure levels.

Thus, I agree with the ALJ that Petitioner has not successfully met the burden of proof to show that there is a medical necessity for daily ADHS.

However, it appears that Petitioner may qualify for social day care services or activities provided at a senior center, and I therefore suggest that she contact NJ EASE at 1-877-222-3737 for additional information about senior services.

THEREFORE, it is on this *23rd* day of June 2015,

ORDERED:

That the Initial Decision affirming the termination of eligibility for adult day care services is hereby ADOPTED as the Final Decision in this matter.



Valerie J. Harr, Director
Division of Medical Assistance
and Health Services