



with household duties essential to the individual's health and comfort, such as bathing, dressing, meal preparation and light housekeeping. The decision regarding the appropriate number of hours is based on the tasks necessary to meet the specific needs of the individual and the hours necessary to complete those tasks. Once PCA services are authorized, a nursing reassessment is performed every six months, or more frequently if warranted, to reevaluate the individual's need for continued care. N.J.A.C. 10:60-3.5(a)3; J.R. v. Div. of Med. Assist. & Health Servs. and Div. of Disability Servs., No. A-0648-14 (App. Div. April 18, 2016). (Op. at 9). N.J.A.C.10:60-3.8 puts limitations on PCA services to prevent the duplication of services. Specifically, PCA services are limited to 40 hours per week with additional services to be provided based on exceptional circumstances. N.J.A.C. 10:60-3.8(g). On January 21, 2022, Laura Andreano, RN, conducted a telephonic assessment of Petitioner using the PCA Nursing Assessment Tool and found that Petitioner required 2.17 hours of PCA services. The PCA tool reflects most categories were scored zero because the Petitioner was approved for and receiving Private Duty Nursing (PDN) services which would address Petitioner's need for assistance. Because the award of both PCA and PDN hours can result in duplicative services, this matter was remanded to the OAL to determine whether Petitioner's needs were being met by her PDN and if the award of PCA hours was unwarranted.

While PDN services must be provided by a licensed certified home health agency...and licensed nurses in the home, PCA services can be performed by a private duty nurse. N.J.A.C. 10:60-5.1(a),(b). Private duty nurses are not prohibited from performing nonmedical services (such as bathing and feeding) when they are in the home. N.J.A.C. 10:60-5.9(a)(2). Moreover, PCA is a delegated nursing task. Indeed, a certified homemaker-home health aide "is employed by a homecare services agency and who, under the supervision of a registered professional nurse, follows a delegated nursing regimen or performs other tasks that are delegated." N.J.A.C. 13:37-14.2. It simply makes no sense

that Petitioner's private duty nurse would delegate a task while she is in the home and fully capable of performing those tasks.

The difference here is that Petitioner is not receiving the full amount of PDN services she has been awarded. Petitioner was found to need twelve (12) hours of daily PDN services, and she is struggling to receive ten (10) hours per day, five (5) days per week. There can be no duplication of services that are not being provided. I am not satisfied that the record establishes that Petitioner's PCA needs are being met by her PDN. Therefore, I am inclined to ADOPT the ALJ's modification of the PCA assessment with the following caveat.

The root of Petitioner's issue seems to stem from the struggle to staff the PDN hours she was awarded. Once that issue has resolved, many of the PCA hours addressed in this decision should be covered by the PDN, reducing or eliminating the need for 22 hours of PCA services. There is no requirement that Horizon continue to provide the same amount of PCA hours given in a prior assessment if there has been no change in the Petitioner's medical condition. B.F. v. Div. of Med. Assit. & Health Servs., No. A-5226-17T2 (App. Div. November 12, 2019). (Op. at 9). Indeed, the Appellate Division has upheld the termination of PCA services, noting that a reassessment is required at least once every six months to evaluate an individual's need for continued PCA services. As a result, the Appellate Court found that "an individual who has received approval for eligible services is not thereby entitled to rely ad infinitum on the initial approval and remains subject to . . . reevaluation at least once every six months". J.R. v. Div. of Med. Assist. & Health Servs. and Div. of Disability Servs., No. A-0648-14 (App. Div. April 18, 2016). (Op. at 9). The need for PCA services, and/or the duplication of PCA services due to the receipt of PDN services, should be fully addressed in Petitioner's next assessment.

THEREFORE, it is on this 10th day of MAY 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance and Health Services