



PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lt. Governor

**State of New Jersey**  
**DEPARTMENT OF HUMAN SERVICES**  
Division of Medical Assistance and Health Services  
P.O. Box 712  
Trenton, NJ 08625-0712

SARAH ADELMAN  
Commissioner

GREGORY WOODS  
Assistant Commissioner

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

N.P.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

CHILDREN'S SYSTEM OF CARE

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 01563-22

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence, and the Initial Decision in this matter. Both the Petitioner and Respondent filed exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is April 10, 2025.

This matter arises from Children's System of Care's (CSOC) July 2, 2021 determination, that the Petitioner should be transitioned and discharged from services they were receiving through CSOC. ID at 2. CSOC is New Jersey's public behavioral

health system that serves children under the age of twenty-one with emotional and mental health care needs, substance abuse challenges, and/or intellectual/developmental disabilities and their families. Id. at 3. PerformCare is the contracted System Administrator for CSOC and the single point of access to several services for children and families who qualify throughout New Jersey. Id. PerformCare can help children access services through a Care Management Organization (CMO). Ibid. The Petitioner was enrolled with MonmouthCares, a CMO, on November 25, 2014. Ibid. MonmouthCares manages Individual Service Plans (ISP) for children whose needs are complex and require intensive care management techniques. Ibid.

A CMO is required to provide initial and continuing case management services to the children and families referred to them. N.J.A.C. 10:73-3.4(a)(1). Such services include initial enrollment of the eligible child, youth, or young adult into CMO services and development of an interim plan to stabilize the individual and address their immediate needs. N.J.A.C. 10:73-3.4(a)(1)(i). A CMO is required to provide continuing services to eligible youth and their families, including comprehensive assessment services, development and implementation of an ISP, advocacy and support, and information management, and quality assessment and improvement. N.J.A.C. 10:73-3.4(a)(1)(ii).

A Child/Family Team (CFT) is a group of individuals the CMO is required to gather to complete the comprehensive ISP. N.J.A.C. 10:73-3.9(a). The CFT is comprised of the CMO care manager, the child, the parents and/or caregiver, other interested family or community members, a clinical staff member directly involved in the treatment and care of the child, and other providers of services and/or educators from outside agencies integrally involved with the needs of the child. Ibid. In this case, at the time

MonmouthCares sought to transition the Petitioner, the members of the Petitioner's CFT included their parents, BCBA Jodi, clinician Lauren, and a psychiatrist.

A child will be discharged from CMO services if the CSOC's assessment of the child, along with the child's ISP, and other relevant information, indicate that the child no longer needs CMO services. N.J.A.C. 10:73-3.6(a)(1). The child's case manager shall provide information to the child and their family regarding how the child can access the appropriate level of services to meet the child's needs, and "shall give assistance in the transition of the level of case management services recommended in the ISP, if such services are needed . . . [for the child] who is discharged from CMO services." N.J.A.C. 10:73-3. 6(b).

There are two different CMO levels, Moderate and High. Ibid. Each comes with its own set of clinical criteria that a youth must meet to qualify for services. Ibid. To qualify for services under the "Moderate" category, a youth must meet one of the following:

- a. Youth has had an episode of inpatient psychiatric hospitalization, or other institutional or residential community based treatment facility within the past 12 months;
  - b. Youth demonstrates at risk behaviors or other psychosocial factors which place him/her at moderate risk for out of home (OOH) treatment or psychiatric hospitalization; or
  - c. Youth is currently involved with two or more child serving systems where one includes either the Division of Child Protection & Permanency, or Detention/Juvenile Justice.
- (R-3.)

Moreover, individuals receiving services should not be discharged from their CMO until they meet certain discharge clinical criteria. ID at 4. One of the criteria for discharge is that the child substantially met the goals and objectives for this intensity of service. Ibid.

If a determination has been made that transition/discharge from CMO services is appropriate, the CMO is tasked with ensuring a comprehensive transition/discharge ISP is developed by the CFT and documented by the CMO. N.J.A.C. 10:73-3. 16(a)(1). The comprehensive transition/discharge ISP must include the recommended date of transition; any recommended additional care management services; identification of responsible parties for the goals and objectives in the ISP; and confirmation of links to community organizations for the youth and family and assurance as to the date of placement into any such programs that are to be done as part of the transition/discharge. N.J.A.C. 10:73-3.16(a)(1).

If an applicant is deemed ineligible for services by the CSOC and appeals the eligibility determination, the applicant "bears the burden of proof and burden of persuasion in an appeal of the CSOC's determination of ineligibility." N.J.A.C. 3A:40-5.1(b). If the CSOC has determined that an applicant is ineligible for services, and the individual has appealed that determination, the individual is to continue to receive services to the extent they were initially authorized to ameliorate an emergency, or until a Final Decision regarding the appeal is issued by the Director, whichever occurs first. N.J.A.C. 3A:40-2.3(b). In situations where a provider of services is seeking to terminate same, such as here where the CMO seeks to transition the Petitioner from their services, thus terminating their programming funded and managed through CSOC, the Agency bears the burden of proof and persuasion, by a preponderance of the evidence. See Atkinson

v. Parsekian, 37 N.J. 143, 149 (1962); and Cosme v. Figueroa, 258 N.J. Super. 333, 338 (Ch. Div. 1992). The Prehearing Order and subsequent Amended Prehearing Order entered in this matter set forth: "The burden of proof is upon respondent, to demonstrate by a preponderance of the evidence, that the denial of continued services for petitioner was appropriate." ID at 32.

In their letter dated July 2, 2021, CSOC informed the Petitioner's mother that, based on the discharge criteria, it was determined that the Petitioner was ready to transition from the CMO services provided by MonmouthCares, which believes that the Petitioner has substantially met the goals and objectives met for them. Id. at 5. According to the letter, the Petitioner was to continue services on an outpatient basis using her private insurance. Ibid.

The Petitioner was fifteen years old at the time the determination letter was issued, and has diagnoses of autism spectrum disorder (ASD), attention-deficit hyperactivity disorder (ADHD), and anxiety. They are a developmentally disabled individual. Id. at 6. When the Petitioner was enrolled in MonmouthCares, the goals set in their ISP were: (1) eliminate behavioral outburst and aggression, (2) develop social skills, and (3) achieve independence in fulfilling activities of daily living. Id. at 4. The Petitioner has received many different therapeutic interventions since enrolling, which include:

- a. IIC services through PGP (10/7/2014-7/1/2015);
- b. BA services through POP (3/31/2015-10/31/2015);
- c. Mentor through POP (9/13/2015-4/7/2016);
- d. ISS services through Epic Health Services (8/29/2016 - 12/22/2016);
- e. ISS services through A Sun Star (5/17/2019 - 8/14/2019);
- f. IIC services through OMNI (7/1/2015 - 9/30/2016);
- g. IIC services through LYTE (4/10/2019-6/7/2021); and
- h. ABA services through Friends of Cyrus (3/19/2017 -

10/13/2018).

(Id. at 4-5.)

Additionally, the Petitioner also received psychiatric medication management and monitoring. Id. at 5.

Since the programming services were terminated on July 2, 2021, the case remains open pending this appeal, however not all the program services were continued for the Petitioner. They have not received the intensive in-home clinician services they were receiving at the time of discharge. Id. at 6.

The Petitioner's mother, D.P. testified during the Fair Hearing and explained that the Petitioner's extreme anxiety was getting worse "by the day." Id. at 20. She also testified that the Petitioner was regressing and their behavior continued to get worse. She explained that the Petitioner expressed being anxious "about everything" and had "frequent suicidal ideations and self-harm talk at least one a day for the past month or so." Ibid. D.P. provided examples of statements by the Petitioner such as: "I wish I could go to heaven" and "I wish I could just die" and that they have nightmares about killing their sister. Ibid. D.P. explained that the Petitioner cries "very often" and was spending a lot of time in bed. The Petitioner had also recently fled from their home on several occasions to go in the street.

In the Initial Decision, the Administrative Law Judge (ALJ) found that the burden is upon CSOC to demonstrate that the determination to discontinue services and transition the Petitioner is appropriate. The ALJ found that in the July 2, 2021 letter CSOC merely stated that the determination was based on information provided by MonmouthCares "detailing [the Petitioner's] improvement to a point where [the Petitioner] and family can manage [the Petitioner's] needs with supports available through your family's insurance and community executive services." Id. at 36. However CSOC did not provide detailed

information in testimony nor documentation in this case. Instead CSOC merely provided generic testimony that the Petitioner was doing well, had successes in school, changed their behavior, and as such was ready for transition. The ALJ concluded that CSOC failed to demonstrate that the Petitioner should have been transitioned or discharged from CMO programming as of the CSOC letter of July 2, 2021. I agree.

The regulations relevant to this case require an ISP with short term, interim, and long-term goals to address the child's needs. There must be measurable goals and time frames. CSOC failed to demonstrate that the CMO had a comprehensive ISP for the Petitioner with such goals. The parties stipulated that there were three goals in the Petitioner's ISP upon enrollment in the CMO in 2014. The parties stipulated that:

At the time of N. P.'s enrollment, the goals set in her ISP were:  
(1) eliminate behavioral outburst and aggression, (2) develop social skills, and (3) achieve independence in fulfilling activities of daily living.

(J-1.)

By merely asserting that the Petitioner is "doing well" and having "successes" in school and "dramatically improved" does not demonstrate that their behavioral outbursts were eliminated or even decreased, or that they developed "social skills" or was able to independently complete their ADLs. The evidence and testimony from the Petitioner's parents support the assertion that the Petitioner had increased anxiety, was a concerned safety risk during the Covid pandemic re-opening time, had fled from the home, and had specific instances of aggressive behavior, such as punching her sister, and suicidal ideations and expressions of self-harm. ID at 20.

The ALJ also concluded that CSOC failed to continue Petitioner's services during the pendency of the appeal, specifically failing to ensure that the CMO coordinated IIH

programming for the Petitioner remained in place. I agree. The Petitioner properly checked the box for coverage/services to continue in the Fair Hearing request form they were sent along with the determination letter on July 2, 2021. (R-1). Merely leaving the file "open" and not formally transitioning them during the pendency of this appeal does not satisfy the right of the Petitioner to have services continue, as CSOC never replaced the IHH clinician, nor did they continue the IHH programming during the appeal.

The Respondent filed exceptions in this matter. In their exceptions CSOC argues "In instances where CSOC conducts a reevaluation and determines that an individual is no longer eligible for services, the individual then may appeal that decision but bears the burden of proof and burden of persuasion in the appeal." Respondent Exceptions at 3, The Respondent cites to N.J.A.C. 3A:40-5.1 as support. However, N.J.A.C. 3A:40-5.1 does not state this. Nowhere does N.J.A.C. 3A:40-5.1 mention a "reevaluation." N.J.A.C. 3A:40-5.1 only mentions "applicants". The Petitioner is not an applicant, and this determination was not based on an application. N.J.A.C. 3A:40-1.3 defines "application" as follows: "'Application" means the application form provided by CSOC and any supporting documentation necessary to the making of an informed determination with regard to applicant eligibility, including medical information." The Petitioner is not an applicant who has filed an application. They are a recipient who has been receiving services since 2014. The Respondent's argument that the burden of proof should be on the Petitioner for a termination of services based on a reevaluation is unconvincing. Judge Frick's prehearing order is not "in direct conflict with the governing law," as the Respondent claims, because the law cited by the Respondent, N.J.A.C. 3A:40.5.1, applies to determinations made on applications, not on reevaluations. I further note that even were the burden of proof on the Petitioner, given the record in this case, it is highly likely the Petitioner would have met that burden.

The Respondent's also argue that they did demonstrate that the Petitioner's ISP goals were met because CYBER notes were admitted into evidence, and that these notes are a "written up" version of an ISP with the "same material." Respondent Exceptions at 4. However, the Respondent does not articulate what specifically in the CYBER notes demonstrates that the Petitioner's ISP goals were met. They further argue that John Petrie, the Petitioner's care manager at Monmouth Cares, testified that the Petitioner's goals had been met. However, the CYBER notes indicate that not all the members the CFT approved of the transition plan. Clinician Lauren did not indicate in any of the CYBER note entries that she endorsed the Petitioner being transitioned from IIH services, and also entered her own notes, one of which expressed her expectation that a replacement IIH clinician would be secured by MonmouthCares, since she would be leaving her position to go into private practice. The Petitioner's mother, D.P., did not agree with the transition plan, nor did BCBA Jodi. ID at 36. The Cyber notes show that it was John Petrie's then supervisor who asserted that the Petitioner was no longer eligible for IIH and should only receive outpatient therapy services coordinated with the parents' private insurance coverage. Ibid. The supervisor was not a member of the child family team, nor was the supervisor called to testify as to why she deemed the Petitioner no longer eligible for IIH. Ibid. John Petrie did testify that while the Petitioner would make comments about self-harm, they did not actually have an immediate plan for self-harm. He characterized these comments as a way to express anxiety. However, the ALJ found that this testimony was not supported by any documentary evidence. The Petitioner's mother testified that the Petitioner had had increased anxiety, was a safety risk during the Covid pandemic re-opening time, had fled from the home, and had specific instances of aggressive behavior, such as punching her sister, suicidal ideations and expressions of self-harm. Id. at 20. This testimony was reinforced by documentation that the Petitioner

had been screened by medical professionals from the local hospital in 2019 and 2020. There were several instances when the Petitioner had to be screened in order to satisfy a "return to school" requirement, due to aggressive behaviors and grossly inappropriate statements they made in school. As such, the Petitioner did have a history of behaviors of great concern to the school community for the safety of the Petitioner and others in the school community, which would satisfy one of the criteria for CMO services. Id. at 37.

The Respondents also argue in their exceptions that a continuation of services was not required in this case because the Petitioner "does not clinically meet the requirements for CMO services. Therefore, ordering the implementation of CMO services would require CSOC to fraudulently provide services to an individual that does not clinically qualify for them." This reflects a misunderstanding of the requirement. Whether the Petitioner meets the clinical requirements for CMO services is the subject of this appeal, and during the pendency of the appeal those services must be continued, as the Petitioner properly requested a continuation of services in their Fair Hearing request. (R-2). The Division of Medical Assistance and Health Services will work with the Department of Children and Families to ensure the requirement for continuation of services is met in such cases in future.

The Petitioner also submitted exceptions, which were mostly a summation of the testimony already presented at the Fair Hearing by D.P. about why the Petitioner needs the services provided by CSOC, and how CSOC failed to continue any services during the pendency of the appeal.

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision, and order that the Petitioner not be transitioned and discharged from CMO MonmouthCares services. I further order that CSOC take

appropriate steps as soon as possible to remedy the failure to continue CMO services during the pendency of this appeal. I note that these remedies must be developed in coordination with the Petitioner, her family, and the CFT.

THEREFORE, it is on this 10th day of April 2025,

ORDERED:

That the Initial Decision is hereby Adopted.

*Gregory Woods*

---

Gregory Woods, Assistant Commissioner  
Division of Medical Assistance and Health Services