



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P.O. Box 712
Trenton, NJ 08625-0712

CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

VALERIE HARR
Director

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

M.C.,
PETITIONER,
v.
HORIZON NJ HEALTH,
RESPONDENT.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 013110-14

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 Respondent's exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to file a Final Decision in this matter was extended until April 23, 2015 pursuant to an Order of Extension.

Based upon my review of the record, I hereby REVERSE the Initial Decision ordering the provision of AloeTouch wipes. Horizon NJ Health denied authorization, concluding that the wipes are a non-covered item and not medically necessary. For the reasons which follow, I agree with that decision.

Petitioner, M.C., lives with his parents and is fully dependent upon them for his care. He is enrolled in the Managed Long Term Services and Supports (MLTSS) program through Horizon NJ Health. M.C.'s physician wrote a prescription for Aloetouch wipes to be used as part of his incontinence program. Horizon denied coverage for the wipes. The ALJ disagreed with Horizon's decision, concluding that M.C. has shown a medical necessity for the wipes and that without them "he could be faced with a breakdown of his skin and potential hospitalization." Initial Decision at page 5. Unfortunately, I must disagree that the aloe wipes are a covered item that should be paid for by Horizon.

As set forth in the Initial Decision as well as in Horizon's exceptions, the testimony of Sharon Suk, Horizon's MLTSS Manager and Licensed Social Worker and Neley Pacheco, a Horizon MLTSS Registered Nurse and Care Manager, show that there are reasonable alternatives to the requested wipes such as a washcloth or sponge and mild soap and water. While using wipes will no doubt make changing M.C. easier for his parents, they are not medically necessary. As Nurse Pacheco testified at the hearing, aloe wipes do not provide any added medical value and a washcloth with mild soap and water or a special wash will similarly reduce the risk of skin breakdown.

As I have said in prior Final Agency Decisions, in a more perfect world, M.C., as well as every other Medicaid beneficiary, would have any item which will improve his or her quality of life. However, the practical limitations of the State's budgetary constraints require that it limit the items it provides to those that are medically necessary. The Division does not dispute that M.C. should receive the

receive the level and quality of care to which he is entitled, but argues, as it must, that the “countervailing public interest (is) in conserving the state’s resources and its ability to fund other worthy public assistance programs.” New Jersey Association of Health Care Facilities et al. v. Gibbs, et al., 838 F. Supp. 881, 929 (D.N.J. 1993), aff’d 14 F.3d. 48 (3d Cir. 1992). There is no doubt that this is a case that evokes sympathy and a desire to assist in any way possible. Nonetheless, the Division is required to evaluate each and every request for assistance, and many must be denied. The Division is limited to approving services and items which are medically necessary, and that necessity has not been shown in this case.

THEREFORE, it is on this *17th* day of April 2015,

ORDERED:

That the Administrative Law Judge’s recommended decision to provide Petitioner with aloe wipes is hereby REVERSED.



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