



State of New Jersey
DEPARTMENT OF HUMAN SERVICES

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

Y.C.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
HORIZON NJ HEALTH,	:	OAL DKT. NO. HMA 10791-14
	:	
RESPONDENT.	:	

As Director of the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the contents of the Office of Administrative Law case file. No exceptions to the Initial Decision were filed. Procedurally, the time period for the agency to render a Final Agency Decision is March 2, 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 January 15, 2015.

Based upon my review of the record, I hereby adopt the conclusions and recommended decision of the Administrative Law Judge in their entirety and I

incorporate the same herein by reference. In order to qualify for private duty nursing services, N.J.A.C. 10:60-5.3(c) requires that:

1. There is a capable adult primary caregiver residing with the individual who accepts ongoing 24-hour Responsibility for the health and welfare of the beneficiary;
2. The primary caregiver agrees to provide a **minimum of eight hours of hands-on care** to the individual in any 24-hour period; and
3. The home environment can accommodate the required equipment and licensed PDN personnel. (emphasis added).

In this case, the primary caregiver, Petitioner's mother, has accepted daily responsibility for her son, including a minimum of eight hours per day of hands-on care. As to the number of hours which can be approved, N.J.A.C. 10:60-5.4(a) provides in part:

2. The Division shall determine and approve the total PDN hours for reimbursement, in accordance with N.J.A.C. 10:60-5.2(b). **A maximum of 16 hours of private duty nursing services may be provided in any 24-hour period.**
3. The determination of the total EPSDT/PDN hours approved, up to the maximum of 16 hours per 24-hour period, shall take into account alternative sources of care available to the care-giver such as medical day care.
4. **In emergency situations**, for example, when the sole caregiver has been hospitalized, **the Division may authorize, for a limited time, additional hours beyond the 16-hour limit.** (emphasis added).

Thus, without a temporary emergency situation, the regulations preclude the provision of private duty nursing services in excess of 16 hours per day. Here, Petitioner is receiving 16 hours of private duty nursing per day, the maximum amount of hours which may be provide in a 24-hour period. N.J.A.C. 10:60-5.3(c) and N.J.A.C. 10:60-5.4(a). Although Petitioner was temporarily provided with 24-hours of nursing care following a hospital stay for pneumonia to provide continuous oxygen monitoring around the clock, I agree with the ALJ that there is no longer an emergent situation warranting the provision of 24-hour services.

THEREFORE, it is on this 24th day of February 2015,

ORDERED:

That the recommended decision denying the provision of 24-hours of private duty services is hereby adopted as the Final Decision in this matter.



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