

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

B.R.,

PETITIONER.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

٧.

OAL DKT. NO. HMA 20718-15

UNITED HEALTHCARE.

RESPONDENT.

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 contents of the OAL case file, Respondent's exceptions to the Initial Decision and Petitioner's reply. Procedurally, the time period for the Agency Head to render a Final Agency Decision is July 25, 2016 pursuant to an Order of Extension.

Based upon my review of the record, I hereby REVERSE the recommended decision of the Administrative Law Judge (ALJ). In this case, Petitioner was approved for 56 hours of weekly PCA services based on an

assessment performed under the Global Options waiver program. In reversing United's reduction of Petitioner's PCA services from 56 to 35 hours per week, the ALJ primarily focused on the fact that Petitioner is home alone to support the provision of 56 hours per week. I disagree with that determination.

PCA services are non-emergency, health related tasks to help individuals with activities of daily living and 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. The issue in this case is not whether B.R.'s medical condition requires that she receive assistance with the activities of daily living (ADL). Both parties agree that such assistance is medically indicated. Rather, the dispute in this case centers on the appropriate number of hours to render the necessary assistance.

Petitioner was initially approved for 56 hours of weekly PCA services based on an assessment performed under the Global Options waiver program. As noted in prior FADs, a new MCO that inherited a client that was afforded a certain amount of hours is not required to explain "how or why" the client was given this amount of services. Thus, in this case, United does not have the burden to disprove the Global Options assessment. Unquestionably, the client should be provided with the number of hours that are medically necessary.

¹ Beginning July 1, 2014, participants in the Global Options Waiver, which is now encompassed by the Comprehensive Medicaid Waiver, were enrolled in the Managed Long Term Services and Supports (MLTSS) program through their current Medicaid managed care program.

However, if too many hours were awarded in error, such an error should not be continued simply because that was the amount of hours awarded in the past.

On July 8, 2016, B.R.'s managed care organization (MCO), United Healthcare, conducted a scheduled assessment. Using the State-approved PCA Beneficiary Assessment Tool, Aviva Plittman, RN, accompanied by B.R.'s care manager, Rostand-Spencer Tchinda, conducted an in-home assessment of B.R. and considered several categories related to her functional limitations and determined the amount of time B.R. needed for each category. Based on this assessment, Nurse Plittman determined that the needed services could be provided within 24.92 hours per week.² However, "[r]ecognizing that Petitioner lives alone in her apartment and her raw score of 24.92 hours on the PCA tool was not enough to meet her functional needs", Dr. Judy Wright, a medical director for United Healthcare, used her discretion to authorize additional hours for a total of 35 PCA hours per week. See United's exceptions at page 3.

Nevertheless, the ALJ concluded that Petitioner should be provided with 56 hours per week. The ALJ based her conclusion in part upon her finding that Petitioner should have been allotted time for transferring, toileting and positioning. I disagree. Nurse Plittman's assessment report, the observations of Petitioner's case manager during the assessment and B.R.'s own testimony make clear that she is able to transfer independently to her bed side commode and re-position herself while in bed. Moreover, in addition to B.R.'s testimony regarding her ability to reposition herself, the PCA assessment does not indicate

² Petitioner was given the maximum or close to the maximum amount of hours for ambulation, bathing, personal hygiene, dressing, eating, meal preparation, housekeeping, shopping and laundry.

any limitation with repositioning. That said, United's medical director's award of an additional 10 hours per week took into account Petitioner's overall circumstances and needs. However, the possibility that B.R. may have an occasional incidence of incontinence exists regardless of how many PCA hours are provided. PCA services are to be used for specific health related tasks, not to provide monitoring in case a particular condition occurs.

In this case, I am persuaded by the fact that no evidence was presented suggesting that any needed service or task cannot be performed within 35 hours per week. If the necessary personal care and household tasks can be accomplished within 35 hours per week, any additional hours would only be used for supervision or companionship which is not an authorized use of the service. See N.J.A.C. 10:60-3.8(c). This would be contrary to the purpose of the PCA program, which is intended to provide medically necessary assistance with specific health related tasks.

Here, the ALJ concluded that Petitioner should be provided with 56 hours of services per week to minimize the amount of time B.R. is home alone. However, the purpose of PCA services is to provide assistance with specific health related tasks, not to take over and replace Petitioner's care. As set forth in United's exceptions, Petitioner may apply for additional home and community services under MLTSS program. For example, if the concern is that Petitioner would be unable to get out of her apartment in the event of an emergency, she may apply for Personal Emergency Resource Services. See United's exceptions at page 4.

Moreover, 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. In this case, when B.R. became a client of United Healthcare, it conducted a reassessment of her PCA needs. In conducting the new assessment, United's nurse was aware of B.R's current medical conditions and needs and what tasks are necessary to meet her specific needs. The amount of time necessary to complete those tasks is included in the PCA assessment tool and in the ultimate recommendation of 35 PCA hours per week.

THEREFORE, it is on this do day of June 2016,

ORDERED:

That the Initial Decision recommending the continuation of 56 hours of weekly PCA services is REVERSED. Petitioner shall receive 35 hours of PCA services per week.

Meghan Davey, Director

Division of Medical Assistance

and Health Services