



**State of New Jersey
 Department of Human Services
 Division of Medical Assistance and Health Services**

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 Director

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

M.M.,

PETITIONER,

v.

UNITED HEALTHCARE,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 12596-18

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. Both Petitioner and Respondent filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 3, 2018 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 receipt. Based upon my review of the record, I hereby MODIFY the Initial Decision reversing Respondent's award of 23 hours for Petitioner's Personal Care

Assistant ("PCA") services per week. For the reasons which follow, I find that Petitioner should receive 28 hours of services per week.

Petitioner is a ninety-three year old woman who lives alone. She suffers from kidney failure, diabetes, arthritis, aphasia, hypertension, pancreatitis, congestive heart failure, foot pain, a history of fainting, poor endurance and an unsteady gait. On June 12, 2018, United Healthcare's nurse, Chantal White, performed an in person assessment of Petitioner to determine her needs pursuant to the Personal Care Assistant (PCA) tool. PCA services are non-emergency, health related tasks to help individuals with activities of daily living (ADLs) 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. United's nurse determined that Petitioner needed limited assistance in most areas and therefore was entitled to 23 hours of PCA services each week.

The Administrative Law Judge (ALJ) found that United's assessment did not account for Petitioner's weakened physical state caused by weekly dialysis treatments. As a result, the ALJ increased the amount of time allotted for certain PCA services, including transferring, bathing, feeding, toileting, and dressing. Conversely, the ALJ decreased the time allotted for shopping because that task was being performed by family members. The ALJ found that Petitioner was entitled to 32 hours of PCA services each week. For the reasons that follow, I ADOPT in part, REVERSE in part and MODIFY the Initial Decision.

It is undisputed that Petitioner receives dialysis treatments three times each week on Monday, Wednesday and Friday. United's nurse did not assess Petitioner on a day when she had dialysis.¹ Nurse White's notes reflect an awareness of Petitioner's physical ailments and her weekly dialysis routine. However, with the exception of feeding, United's assessment shows no variation in time allotted for ADLs on those days when Petitioner receives dialysis. Instead, the time allotted for each ADL is the same every day of the week. Given Petitioner's weakened physical state after dialysis, I am inclined to agree with the ALJ that the Petitioner should receive additional PCA services. However, contrary to the ALJ's findings, that additional time should be limited to those days on which Petitioner receives treatment.

With regard to the transferring, bathing, and toileting, I find that the ALJ correctly concluded that United's assessment should have accounted for additional time as a result of Petitioner's weakened state after dialysis treatments. However, the ALJ's calculations incorrectly applied that increased allotment of time seven days a week rather than the three days each week that Petitioner actually receives dialysis. As a result, for transferring, I find that Petitioner should receive 150 minutes each week (fifteen minutes for four days each week and thirty minutes for the three days each week that Petitioner receives dialysis). For the bathing, I find that Petitioner should receive 155 minutes each week (twenty minutes for four days each week and 25 minutes for three days each week). For toileting, I find that it is reasonable to assume that the Petitioner would need to use the bathroom more than twice a day. Therefore, the Petitioner should receive 420 minutes per week (15 minutes per occurrence with four occurrences each day).

¹ The assessment was conducted on June 12, 2018, which was a Tuesday.

United's assessment did account for assistance with feeding on the three days that Petitioner receives dialysis and found that Petitioner did not need assistance on the days when she did not receive any treatments. The record does not support an increase in this time allotment and the assessment should remain at 30 minutes per week.

With regard to dressing, the ALJ found that Nurse White's assessment of "Limited Assistance" was accurate but concluded that Petitioner required dressing and undressing more than twice a day. There is nothing in the record to support this conclusion and neither Petitioner nor her son testified that additional time was needed for dressing. Therefore, I find that United's assessment of 140 minutes per week for dressing shall remain unchanged.

With regard to shopping, the ALJ found that United's assessment of 60 minutes per week was not warranted because Petitioner's family would shop for her. Petitioner is the only member of her household. PCA hours are assessed based on the Petitioner's needs. They are not based on what services family members, who live outside the home, are providing pending the outcome of the PCA assessment. Therefore, I find that Nurse White correctly assessed that Petitioner should receive 60 minutes of PCA care a week for shopping.

THEREFORE, it is on this 7th day of DECEMBER 2018,

ORDERED:

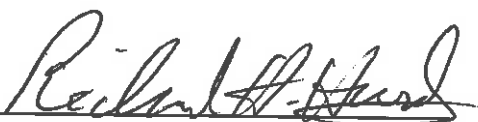
That the Initial Decision is ADOPTED with regard to United's assessment of PCA services to address Petitioner's needs pertaining to cognition, ambulation, positioning, personal hygiene/grooming, housekeeping, bed linen changes, meal preparation and laundry; and

That the Initial Decision is REVERSED with regard to United's assessment of PCA services to address Petitioner's needs pertaining to dressing. They shall remain at 140 minutes as originally assessed by United; and

That the Initial Decision is REVERSED with regard to United's assessment of PCA services to address Petitioner's needs pertaining to feeding. They shall remain at 30 minutes as originally assessed by United; and

That the Initial Decision is REVERSED with regard the PCA assessment for shopping and that United's original assessment of 60 minutes per week shall remain in place; and

That Petitioner shall receive 27 hours of PCA services per week.


Richard Hurd, Chief of Staff
Division of Medical Assistance
and Health Services