

nursing services. In order to be considered for private duty nursing services an individual must “exhibit a severity of illness that requires complex skilled nursing interventions on an ongoing basis”. N.J.A.C. 10:60-5.3(b). “Complex” means the degree of difficulty and/or intensity of treatment/procedures.” N.J.A.C. 10:60-5.3(b)(2). “Ongoing” is defined as “the beneficiary needs skilled nursing intervention 24 hours per day/seven days per week.” N.J.A.C. 10:60-5.3(b)(1). The regulations define “skilled nursing interventions” as “procedures that require the knowledge and experience of licensed nursing personnel, or a trained primary caregiver.” N.J.A.C. 10:60-5.3(b)(3).

The regulations addressing the medical necessity for private duty nursing services state that patient observation, monitoring, recording and assessment may constitute a need for private duty nursing services provided that the beneficiary is ventilator dependent, has an active tracheostomy and needs deep suctioning. N.J.A.C. 10:60-5.4(b)(1). Medical necessity may also be established if the individual needs around-the-clock nebulizer treatments, with chest physiotherapy; gastrostomy feeding when complicated by frequent regurgitation and/or aspiration; or a seizure disorder manifested by frequent prolonged seizures, requiring emergency administration of anti-convulsants. N.J.A.C. 10:60-5.4(b)(2).

Petitioner suffers from a number of chronic medical conditions. Petitioner's treating physician cited a need for private duty nursing to continue in order to prevent further medical complications. See P-1. However, private duty nursing cannot be used purely for monitoring in the absence of a qualifying medical need. Although N.J.A.C. 10:60-5.4(b)2.ii provides that medical necessity may also be established if the individual needs gastrostomy feeding “when complicated by frequent regurgitation and/or aspiration”, no medical evidence was presented to establish that Petitioner's feedings are complicated by frequent regurgitation or aspiration. Because Petitioner does not

require complex, ongoing interventions by a licensed nurse, she does not meet the eligibility requirements for private duty nursing.

THEREFORE, it is on this 4th day of APRIL 2018,

ORDERED:

That the Initial Decision affirming the denial of private duty nursing is hereby ADOPTED.

A handwritten signature in cursive script, appearing to read "Meghan Davey", is written over a horizontal line.

Meghan Davey, Director
Division of Medical Assistance
and Health Services