



hearing and the denial of Petitioner's request for 48 hours a week of PCA services was transmitted to the Office of Administrative Law (OAL) on June 8, 2017. On or about, August 28, 2017, United conducted another assessment based on a change in Petitioner's condition. As a result of that assessment, United determined that Petitioner was eligible for 53 hours of PCA services.

The matter transmitted and appropriately before the court is the May 2, 2017 denial of Petitioner's request for 48 hours of weekly PCA services. However, during the pendency of his appeal, United performed a reassessment and Petitioner was authorized 53 hours of weekly PCA services. Questions that have become moot prior to judicial scrutiny are an improper subject for judicial review. Anderson v. Sills, 143 N.J. Super. 432 (Ch. Div. 1976). In light of the fact that Petitioner is receiving more than the maximum 48 hours that he ALJ could award in this matter, I FIND that the issue on appeal is moot.

Moreover, Federal law requires that, after July 1, 2017, a Medicaid Fair Hearing can only be requested after the results of an Internal (Stage 1 of Level 1) Appeal with the MCO within 60 days of the date of the denial. See 42 CFR 438.404(b)(3) and 42 CFR 438.402(b)-(c). The record contains no evidence that Petitioner requested an internal appeal with United or a fair hearing with this office regarding the August 28, 2017 determination. There is no pending fair hearing concerning that assessment and it is not the subject of the matter transmitted. N.J.A.C. 1:1-3.2. Consequently, any findings or conclusions regarding Petitioner's entitlement to PCA hours other than the 48 requested as part of the June 8, 2017 transmittal are not currently before the court.

THEREFORE, it is on this <sup>18<sup>th</sup></sup> day of MARCH 2018, as previously signed on  
the 9<sup>th</sup> day of February 2018,

ORDERED:

That the Initial Decision is hereby REVERSED.

*Care Grant Act Director*

Meghan Davey, Director  
Division of Medical Assistance  
and Health Services

*MDP*  
*Meghan Davey*