

This matter arises from United Healthcare's (United) March 9, 2020 denial of Petitioner's request for Private Duty Nursing (PDN) Services. Petitioner chose to pursue an external appeal through the Department of Banking and Insurance's (DOBI) independent utilization review organization (IURO) process. N.J.A.C. 11:24-8.7(a). The IURO determines whether the United's determination was correct, and if it was not, the IURO must identify the appropriate services for the member. N.J.A.C. 11:24-8.7(k). The IURO's decision is binding on United. N.J.A.C. 11:24-8.7(j). The IURO conducted the review pursuant to DOBI's rules and regulations. See N.J.A.C. 11:24-8.7. On April 28, 2020, the IURO issued its determination upholding United's decision to deny Petitioner's request for PDN services.

On June 4, 2020, Petitioner requested a Medicaid fair hearing on the same issue. On June 19, 2020, the matter was transmitted to the OAL. On March 11, 2021, the record closed and on April 5, 2020, the OAL issued an Initial Decision. Based upon my review of the record, I hereby ADOPT the Initial Decision affirming United's determination that Petitioner is not eligible for PDN services. The ALJ affirmed both United's and the IURO's determination, and I find no reason to disturb that decision.

The purpose of PDN services is to provide individual and continuous nursing care by licensed nurses in the home. N.J.A.C. 10:60-5.1(b). 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).

Medical Director Dr. Amy Aronsky testified on behalf of United. She reviewed the

Petitioner's medical records and documentation to determine if the request for PDN services was medically necessary. She testified that Petitioner is not on a mechanical vent. He does not have a tracheotomy or a need for deep suction. He does not use a nebulizer, nor does he undergo gastronomy feeding. While he does have a seizure disorder, it is not marked by frequent or prolonged seizures and there is no history of emergency need to administer anticonvulsants. Petitioner did not provide any documentation to contradict these findings. I FIND that United correctly determined that Petitioner was not eligible for PDN services in March 2020.

The medical examination and plan of care submitted by Petitioner is dated March 5, 2021 and post-dates United's determination by almost one year. While the plan of care is not determinative of Petitioner's current medical needs, Petitioner can always submit another request if there has been a change in his medical condition.

THEREFORE, it is on this 9th day of MAY, 2022

ORDERED:

That the Initial Decision is hereby ADOPTED.



Jennifer Langer Jacobs, Director
Division of Medical Assistance
and Health Services