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

C.J.,

PETITIONER,

v.

HORIZON NJ HEALTH,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. No. HMA 01705-24

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 3, 2024, in accordance with an Order of Extension.

This matter concerns the reduction of Petitioner's Private Duty Nursing (PDN) hours by Horizon NJ Health (Horizon), from sixteen hours per day, seven days per week, to twelve hours per day, seven days per week. Petitioner is twenty-one years old who has been diagnosed with traumatic brain injury, spastic quadriparesis, seizures, gastrostomy tube, major neurocognitive disorder, constipation, and incontinence without sensory awareness. (R-4, R-7). Horizon previously authorized PDN services for

Petitioner for sixteen hours per day, seven days per week. (R-2). After Petitioner was reassessed in November 2023, Horizon reduced the hours down to twelve hours per day, seven days per week. (R-10).

Petitioner's pursued an internal appeal and Horizon's determination to reduce PDN services was affirmed by MES Peer Review Services by a letter dated January 15, 2024. (R-3). Thereafter, Petitioner pursued an external appeal through Maximus Federal Services, Inc., an organization that contracts with the State of New Jersey Department of Banking and Insurance to provide independent external reviews of adverse benefit determinations. The independent review, which was binding on Horizon, affirmed the denial. (R-4). See N.J.A.C. 11:24-8.7(j).

After concluding the appeal, this matter was transferred to the Office of Administrative Law. On June 17, 2024, a hearing was held and the OAL issued an Initial Decision affirming Horizon's determination to reduce Petitioner's PDN services. For the reasons set forth therein, I concur.

The regulations state that the purpose of PDN services is to provide "individual and continuous nursing care, as different from part-time intermittent care, to beneficiaries who exhibit a severity of illnesses that require complex skilled nursing interventions on a continuous ongoing basis." N.J.A.C. 10:60-5.1(b). ~~To be considered in need of~~ EPSDT/PDN services, "an individual must exhibit a severity of illness that requires complex intervention by licensed nursing personnel." 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). 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). Further, N.J.A.C. 10:60-5.4(b) sets forth the criteria to be met in order to receive PDN services:

(b) Medical necessity for EPSDT/PDN services shall be based upon, but may not be limited to, the following criteria in (b)1 or 2 below:

1. A requirement for all of the following medical interventions:

- i. Dependence on mechanical ventilation;
- ii. The presence of an active tracheostomy; and
- iii. The need for deep suctioning; or

2. A requirement for any of the following medical interventions:

- i. The need for around-the-clock nebulizer treatments, with chest physiotherapy;
- ii. Gastrostomy feeding when complicated by frequent regurgitation and/or aspiration; or
- iii. A seizure disorder manifested by frequent prolonged seizures, requiring emergency administration of anti-convulsants.

Additionally, the regulation goes on to exclude certain criteria that do not rise to the level of PDN services unless the criteria above is met:

(d) Services that shall not, in and of themselves, constitute a need for PDN services, in the absence of the skilled nursing interventions listed in (b) above, shall include, but shall not be limited to:

1. Patient observation, monitoring, recording or assessment;
2. Occasional suctioning;
3. Gastrostomy feedings, unless complicated as described in (b)1 above; and
4. Seizure disorders controlled with medication and/or seizure disorders manifested by frequent minor seizures not occurring in clusters or associated with status epilepticus.

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N.J.A.C. 10:60-5.4(d).

In the present matter, Diane Szondrowska, RN, completed an assessment of Petitioner on November 29, 2023, using Horizon's PDN Acuity Tool. (R-1). Szondrowska testified that she went to Petitioner's home, reviewed nursing notes, the treatment plan of care, and the letter of medical necessity from Petitioner's treating physician. ID at 3. Szondrowska also spoke with Petitioner's mother and took into consideration that there are two additional children, ages ten and seventeen, in the household. Ibid. The PDN Acuity Tool generated a score of 27.5, which equates to between 8 and 11.9 PDN hours

per day. The previous assessment, completed in February 2020, generated a score of 31, which equated to between 12 to 15.9 PDN hours per day. (R-2). The significant differences between the two assessments include improvement in Petitioner's seizure management, a decrease in skilled services required, a decrease in safety management needed, and the elimination of rehabilitation therapy. ID at 3.

Petitioner's mother testified and stated that she is a single, working parent with two additional children in the household. ID at 4. She works from approximately 9:00 a.m. until 6:30 p.m. and a neighbor stays with Petitioner from the time they get home from school around 4:00 p.m. Ibid. She also testified that it would be difficult for her to balance work and care for Petitioner if they do not receive more than twelve hours of PDN hours. Ibid. Angela Lewis, RN, also testified for Petitioner. She has been supervising Petitioner's care since 2021. ID at 3. The company she works for provides care for Petitioner from 10:00 p.m. until 6:00 a.m. every day and another company provides care during the daytime. Ibid.

The PDN Acuity Tool results show that there has been an improvement in Petitioner's condition over the last few years. Specifically, there has been improvement in Petitioner's seizure management, a decrease in skilled services required, a decrease in safety management needed, and the elimination of rehabilitation therapy. Importantly, there is no indication in the record that Petitioner has argued that the results of the assessment is inaccurate or what additional skilled nursing care is required.

Thus, for the reasons stated above, I FIND that Petitioner was properly reassessed, and Petitioner's reassessment and the supporting clinical records fail to demonstrate that Petitioner meets the criteria for medical necessity to support sixteen hours per day of PDN services, seven days a week. As such, the reduction of PDN

services to twelve hours per day, seven days per week, was appropriate under N.J.A.C. 10:60-5.4. However, it appears it has now been approximately ten months since the reassessment at issue was completed, which makes it difficult to determine the amount of services that Petitioner currently requires. Accordingly, Petitioner's current status must be reassessed.

THEREFORE, it is on this 3rd day of OCTOBER 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED; and

That Horizon shall assess Petitioner's current condition within four weeks of this decision to determine Petitioner's present medical necessity for PDN services, if Petitioner has not been reassessed within the prior six months.

  
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Gregory Woods, Assistant Commissioner  
Division of Medical Assistance and Health Services

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