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

J.Q.

PETITIONER,

v.

HORIZON NEW JERSEY HEALTH,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 03508-2024

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Exceptions were not filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 30, 2024, in accordance with an Order of Extension.

This matter arises from Horizon New Jersey Health's (Horizon) reduction of Personal Care Assistance (PCA) hours for Petitioner from twenty-one hours per week to fourteen hours per week. In January of 2024, Horizon notified the Petitioner that their PCA service hours would be reduced based on a reassessment performed on December 21, 2023. ID at 2. The Petitioner requested an external independent review which was done by Dr. Neil K. Gupta, M.D., Medical Examination Services (MES). Ibid. Dr. Gupta noted that the number of times the Petitioner fell in the last six months had decreased from their previous assessment. Ibid. As such, Dr. Gupta approved fourteen hours of New Jersey Is An Equal Opportunity Employer • Printed on Recycled Paper and Recyclable

PCA services. Ibid. Petitioner appealed the reduction, and the matter was transmitted to the OAL for a hearing.

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, and ambulation. 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. The regulations provide that PCA services are only warranted when the beneficiaries is "in need of moderate, or greater, hands-on assistance in at least one activity of daily living (ADL), or, minimal assistance or greater in three different ADLs, one of which must require hands-on assistance." N.J.A.C. 10:60-3.1(c). Additionally, instrumental activities of daily living (IADL) "such as meal preparation, laundry, housekeeping/cleaning, shopping, or other non-hands-on personal care tasks shall not be permitted as a stand-alone PCA service." N.J.A.C. 10:60-3.1(c)(1). The assessments use the PCA Nursing Assessment Tool (PCA Tool) to calculate the hours.

The Petitioner is forty-six years old and is diagnosed with post-traumatic stress disorder (PTSD), anxiety, bipolar disorder, schizoaffective disorder, agoraphobia, and severe anemia. ID at 2. A symptom of the Petitioner's PTSD is seizure-like flashbacks, which cause them to fall and lose consciousness. Ibid. The Petitioner has received twenty-one hours a week of PCA services since 2019. Ibid. Generally, PCA assessments are conducted every year. Id. at 3. However, the Petitioner was not reassessed since 2019 because of the statewide moratorium that prohibited the discontinuance or reduction of any personal care services during the COVID-19 pandemic. Ibid.

On December 21, 2023, Laurel Kelly, a Registered Nurse, performed a reassessment of Petitioner's PCA services to determine the hours of care needed. Id. at

3. Nurse Kelly observed the Petitioner perform several ADLs without any assistance. (R-2.) In regard to ambulation and mobility, Nurse Kelly observed the Petitioner walking, but noted that the Petitioner had an unsteady gait and needed hands-on assistance from their caregiver, J.D. Nurse Kelly also took the Petitioner's history of seizure-like flashback episodes into consideration and provided 210 minutes a week, the maximum allotted time for PCA assistance with ambulation. Ibid. Nurse Kelly did not provide the Petitioner with any time for transferring, since they were not transferring from a bed or chair to a wheelchair or using any lifts. Ibid. Nurse Kelly also allotted 105 minutes a week for assistance with setup and supervision during the Petitioner's showers. Ibid. 245 minutes a week were also allotted for assistance with toileting. Ibid. 105 minutes a week were allotted for assistance in cleaning up and changing clothes. Ibid. Nurse Kelly also allotted some time for the IADLs, including 120 minutes for housekeeping and 45 minutes for laundry. Ibid. Nurse Kelly determined that the Petitioner did not need assistance with feeding, positioning, or personal hygiene/grooming. Ibid. Notably, Nurse Kelly determined that the Petitioner had six falls and no hospitalizations in the past six months. Ibid. Conversely, during the time of the Petitioner's previous assessment, they suffered from three to four flash backs a day and "frequent falls and catches." Ibid.

In January of 2024, Horizon notified the Petitioner that their twenty-one hours of PCA services per week were being reduced to fourteen hours per week. Id. at 2. A Fair Hearing was requested and a telephonic hearing was held on June 25, 2024. Ibid.

The Petitioner testified that that since Nurse Kelly performed the reassessment, their anxiety has become worse, and they have had more seizures and falls than before December 2023. Id. at 4. The Petitioner also testified that they experience about six or more flashback episodes every day, and is concerned that the reduction of PCA service hours will leave her unsupervised during a flashback. Ibid. The Petitioner further testified

that because they are anemic they have a special prescribed diet and time should have been allotted for "meal preparation." Ibid. However, in the Initial Decision the Administrative Law Judge (ALJ) found the Petitioner did not provide any supporting documentation of a prescribed diet. Ibid.

The Petitioner was originally awarded PCA services because they had three or four flashbacks a day and "frequent falls and catches." Ibid. Nurse Kelly determined that the Petitioner had six falls in the six months prior to the December 2023 reassessment, which did not require hospitalizations. Ibid. The ALJ found that the Horizon Policy does not provide for "Supervision, as a stand-alone service." Ibid. The ALJ further found that the Petitioner's concerns about having a flashback while they are not home is not covered by PCA services. Id. at 5. Based on the December 2023 reassessment, since the Petitioner had fewer flashbacks in at least the later part of 2023, the risk for the number of potential falls would decrease. Ibid.

In the Initial Decision the ALJ found that the Petitioner failed to provide any medical evidence that they required twenty-one hours of PCA services, including assistance with the preparation of a special diet. N.J.A.C. 10:60-3. 4(a). The ALJ concluded that Horizon established that the Petitioner's needs for PCA services related to ambulation, bathing, toileting, and dressing based on their history of seizure-like episodes and anemia, as well as IADLs including housekeeping and laundry, can be met with fourteen hours a week of assistance under N.J.A.C. 10:60-3. 9(b)(1). Ibid. I agree with the Initial Decision.

PCA services "accommodate long-term chronic or maintenance health care. As opposed to short-term skilled care required for some acute illnesses. "N.J.A.C. 10:60-3. 1 (b). Those services include personal care for ADLs, such as ambulation/mobility, transferring, positioning, grooming, bathing, toileting, and dressing, along with IADLs, such as grocery shopping, changing bed linens, and preparing and serving meals.

N.J.A.C. 10:60-3. 3(a),(b). PCA services are not approved when the purpose is for supervision as a standalone service, mental-health services, or services to beneficiaries with a medical diagnosis that does not indicate a functional limitation. N.J.A.C. 10:60-3. 8(c). The Petitioner's reliance on their caregiver, J.D. to be present during a flashback in case they fall is outside the scope of PCA services. Most of the Petitioner's PCA services are auxiliary support based on their seizure like episodes and not based on any physical functional limitations. Qualification for PCA services must be "certified in writing to the health care services firm by a physician/practitioner as medically necessary, at the time of initial application for services and annually thereafter for recertification." N.J.A.C. 10:60-3. 4(a). In addition, when a beneficiary "lives with a legally responsible relative (LRR), the LRR is expected to provide assistance with non-hands-on IADL care tasks that benefit the household as a whole, such as ... meal preparation." N.J.A.C. 10:60-3. 1(c)(2). The Petitioner did not provide sufficient support for their dietary requirements to be considered for assistance with meal preparation in the December 2023 assessment. However, it has now been over nine 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.

Based upon my review of the record and for the reasons set forth herein, I hereby ADOPT the Initial Decision in this matter.

THEREFORE, it is on this 29th day of October 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED, and

That if a reassessment has not already been completed within the past six months, then Horizon shall assess Petitioner's current condition within four weeks of this decision to determine Petitioner's present medical necessity for PCA services.

Gregory Woods

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