

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 State-approved PCA Nursing Assessment Tool (PCA Tool) to calculate the hours.

On September 27, 2023, Mariya Olenchuk, a Registered Nurse, performed a reassessment of Petitioner's PCA services to determine the hours of care needed. ID at 3. Petitioner, who turns ninety years old this year, suffers from hypertension, coronary artery disease, hypothyroidism, macular degeneration, and hyperlipidemia. ID at 2. Petitioner also suffers from knee and lower-back pain. Ibid. For at least the previous two years, Petitioner has been approved for twelve hours a week of PCA services. Ibid. On November 20, 2023, Horizon notified Petitioner that their twelve hours of PCA services per day were being terminated effective January 1, 2024. Ibid. Petitioner filed an appeal and an external independent reviewer upheld the decision. (R-5). A Fair Hearing was requested and a telephonic hearing was held on May 29, 2024. ID at 2.

At the hearing, Mariya Olenchuk, RN, testified regarding the assessment she conducted using the State-approved PCA Tool. ID at 2. The PCA Tool measures the following ADLs: cognition, ambulation, transferring, bathing, feeding, positioning, toileting, personal hygiene, and dressing. (R-1). Ms. Olenchuk testified that she observed Petitioner walking around her home on her own with a steady gait, transferring and positioning. ID at 3. Although Petitioner can independently walk around the house,

because of their age and loss of vision in the left eye, Petitioner is not able to walk outside without assistance and uses a cane for support. Ibid. Ms. Olenchuk stated that Petitioner uses a shower chair to get in and out of the tub and can wash herself independently. (R-1). I.K., Petitioner's daughter and caregiver, stated that Petitioner needs help with shampooing and combing her hair since Petitioner has trouble raising their arms above their shoulders. ID at 3. Petitioner also needs help going to doctors' visits. Ibid. The Administrative Law Judge (ALJ) found that Petitioner did not need any PCA services for ambulation. ID at 4. The ALJ also found that although the Horizon PCA Services policy includes "Accompanying the beneficiary...to clinics, physician/practitioner office visits," the State tool does not consider assistance with medical visits as a standalone ADL. Ibid. The ALJ also found that Petitioner needs minimal assistance with some aspects of grooming, such as shampooing and combing their hair. Ibid. Lastly, the ALJ found that the doctors' letters provided by I.K. that show Petitioner's medical diagnosis do not specifically address the categories of care and any additional amount of PCA services time that Petitioner needs. Ibid.

The Initial Decision concluded that Petitioner was not eligible for PCA services because Petitioner, at best, required only minimal assistance with two ADLs, grooming and accompanying to their medical appointments. ID at 5. As such, Horizon established by a preponderance of the evidence that Petitioner did not require moderate, or greater, hands-on assistance in at least one ADL or minimal assistance or greater in three different ADLs during the September 2023 reassessment. Ibid.

Petitioner filed exceptions to the Initial Decision arguing that not only do they require hands-on assistance with grooming and accompanying to medical appointments, they also require hands-on assistance with the following additional ADLs:

1. Bathing in the shower/tub
2. Ambulation outdoors

3. Moving in and out of the bathtub
4. Dressing

Petitioner's exceptions go on to state that leaving a 90-year-old, very fragile Holocaust survivor without any PCA hours is a very wrong decision.

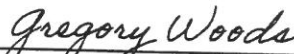
While the findings section of the Initial Decision specifically addresses ambulation, it does not specifically address these other categories. On remand, Petitioner should be given the opportunity to address their disagreement with the assessment related to bathing and dressing, and the ALJ should make findings on these specific categories.

Based upon my review of the record and for the reasons set forth herein, I hereby REVERSE the Initial Decision in this matter and REMAND the matter to clarify the record, as detailed herein.

THEREFORE, it is on this 18th day of SEPTEMBER 2024,

ORDERED:

That the Initial Decision is hereby REVERSED and REMANDED, as set forth herein.



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