



PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
Division of Medical Assistance and Health Services
P.O. Box 712
Trenton, NJ 08625-0712

SARAH ADELMAN
Commissioner

GREGORY WOODS
Assistant Commissioner

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

M.R.

PETITIONER,

v.

HORIZON NJ HEALTH,

RESPONDENT.

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ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 02492-2024

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. No exceptions were filed by either party in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 24, 2024, in accordance with an Order of Extension.

This matter arises from Horizon NJ Health's (Horizon) reduction of Personal Care Assistance (PCA) hours for Petitioner from forty hours per week to twenty-two hours per week. An internal appeal was conducted, which upheld the reduction of PCA hours. (R-2). Petitioner appealed the reduction of PCA hours, 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 beneficiary 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 October 11, 2023, Aja Davis, a Registered Nurse, performed a reassessment of Petitioner's PCA services to determine the hours of care needed. (R-3). Petitioner, who is sixty years old, suffers from chronic obstructive pulmonary disease, Type 2 diabetes with neuropathy, high blood pressure, rheumatoid arthritis, asthma, sciatica, and rotator-cuff surgery. ID at 2. Prior to the October 11, 2023 assessment, Petitioner was eligible for forty PCA hours per week. Ibid. On February 2, 2024, Horizon notified Petitioner that their internal appeal upheld the reduction of PCA care from forty hours per week down to twenty-two hours per week. (R-2). A Fair Hearing was requested and a telephonic hearing was held on June 26, 2024. ID at 2.

At the hearing, Aja Davis, RN, BSN, MSN, testified regarding the assessment she conducted using the State-approved PCA Tool. ID at 2-3. The PCA Tool measures the following ADLs: cognition, ambulation, transferring, bathing, feeding, positioning, toileting, personal hygiene, and dressing. (R-3). When Petitioner was receiving forty hours of PCA services, Petitioner had an aide who came twice a day on weekdays and once on the

weekends. ID at 2-3. The aide would prepare Petitioner's meals, assist with toileting as needed, and bathe Petitioner twice a day. ID at 3.

On June 10, 2024, Aja Davis conducted another clinical assessment using the PCA Assessment tool which resulted in a determination that Petitioner was eligible for thirty hours of PCA hours per week. Ibid. The June 10, 2024, PCA Assessment found that Petitioner required assistance with additional ADLs in the areas of ambulation, feeding, bathing, toileting, dressing and personal hygiene, since the October 2023 assessment. Ibid. At the hearing, Petitioner did not dispute the findings of the June 10, 2024 assessment. Ibid.

The Initial Decision found that Horizon carefully and correctly assessed the number of PCA hours Petitioner is currently entitled based on the level of assistance Petitioner needs with their ADLs. Ibid. The Initial Decision concluded that Petitioner was not eligible for additional PCA hours per week and is only entitled to thirty PCA hours per week, relying on the July 10, 2024 assessment. ID at 5.

There is no testimony in the record showing Petitioner specifically articulated why they were entitled to more PCA hours, just that Petitioner preferred more hours and posited that they may have additional medical issues in the future. ID at 4. Additionally, Petitioner did not present any exhibits to support their position.

The PCA assessment before the court was the October 11, 2023, assessment. Therefore, we are required to only consider the information which was available to Horizon in October 2023, when they made the decision to reduce the PCA services from forty hours to twenty-two hours per week. It is quite possible for Petitioner's status to have changed between the October 2023 assessment being appealed and the more recent July 2024 assessment. However, for the purpose of this appeal, any such changes are not pertinent. The July 2024 assessments cannot be considered when reviewing the

correctness of Horizon's October 2023 decision, and therefore it was improper for the Initial Decision to primarily focus on the outcome of the more recent July 2024 assessment.

Nonetheless, there is nothing in the record showing Petitioner provided testimony, clinical records or other evidence supporting a determination of forty hours per week of PCA services. Therefore, I FIND that Petitioner was properly assessed on October 11, 2023. As such, the reduction of PDN services to twenty-two hours per week was appropriate under N.J.A.C. 10:60-5.4. However, as the July 10, 2024 assessment determined that Petitioner was entitled to thirty hours per week of PCA services at that time, Petitioner shall continue to receive those services.

THEREFORE, it is on this 21st day of OCTOBER 2024,

ORDERED:

The Initial Decision, which confirmed that Horizon correctly assessed the Petitioner's need for PCA services based on the October 11, 2023 assessment, is ADOPTED. The Initial Decision's focus on the July 10, 2024 assessment is REVERSED.



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



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Petitioner,

v.

HORIZON,

Respondent.

ORDER OF EXTENSION

OAL DKT. NO. HMA 02492-24

The Initial Decision was received by this agency on **July 25, 2024**; therefore, the 45-day statutory period issuing a Final Decision expires on **September 9, 2024**. DMAHS Assistant Commissioner Gregory Woods requests a 45-day extension of time for issuing the Final Decision as he needs additional time to review the Initial Decision, the OAL case file, the law and facts surrounding the matter and the documents in this case.

Good cause having been shown, pursuant to *N.J.S.A. 52:14B-10(c)* and *N.J.A.C. 1:1-18.8*, **IT IS ORDERED** that the time limit for issuing the final decision is extended until **October 24, 2024**.

Gregory Woods

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

DATE: August 15, 2024

Date agency e-mailed proposed order to OAL: August 15, 2024

Barry E. Moscovitz

Barry E. Moscovitz, Acting Director and
Chief Administrative Law Judge

DATE: August 15, 2024

Date OAL e-mailed executed order to agency: August 15, 2024

Date agency mailed executed order to parties:

c: Parties