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**State of New Jersey**  
**DEPARTMENT OF HUMAN SERVICES**  
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Assistant Commissioner

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

Z.S.

PETITIONER,

v.

HORIZON NJ HEALTH,

RESPONDENT.

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**ADMINISTRATIVE ACTION**

**ORDER OF REMAND**

**OAL DKT. NO. HMA 10040-2024**

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 by either party in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 30, 2024.

This matter arises from Horizon NJ Health's (Horizon) assessment of Personal Care Assistance (PCA) hours for Petitioner. Petitioner appealed the denial, 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 are “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 February 6, 2024, Ala Latosh, a Registered Nurse, performed a reassessment of Petitioner’s PCA services to determine the hours of care needed. (R-1). Petitioner suffers from autism and asthma. ID at 2. Previously, Petitioner had been approved for nineteen hours a week of PCA services. Ibid. On June 10, 2024, Horizon notified Petitioner that their hours of PCA services per week were being reduced to twelve hours effective July 1, 2024. (R-3). Petitioner filed an internal appeal and Horizon upheld the decision. (R-4). A Fair Hearing was requested, and a telephonic hearing was held on November 8, 2024. ID at 2.

At the hearing, Ala Latosh, 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). There is no additional testimony from Latosh mentioned in the Initial Decision.

Z.S., mother of Petitioner, also testified at the hearing and did not dispute the findings made relative to the activities of daily living (ADL) documented in the PCA Assessment. ID at 2.

The Administrative Law Judge (ALJ) found that Horizon used the State-mandated PCA Assessment tool and carefully and correctly assessed the number of PCA hours to which Petitioner is currently entitled to based on the level of assistance Petitioner needs with ADLs. ID at 4. The ALJ also stated that Z.S. did not dispute the findings of the PCA Assessment, but rather indicated that she preferred more hours. Ibid. The ALJ concluded that Petitioner is ineligible for additional PCA hours per week and is only entitled to twelve PCA hours per week. Ibid.

Upon further review of the results of the assessment, Latosh assigned 5 minutes of assistance needed per meal. (R-1 at 5). The assessment states, “\*If no assistance needed, enter “0” \* 10-20 minutes per meal.” The most reasonable interpretation of this section is that if assistance is needed, Latosh should assign a minimum of 10 minutes per meal, up to a maximum of 20 minutes per meal. It appears that Latosh has gone outside of the guidelines in assigning only 5 minutes per meal. For context, the Bathing section states, “\*Upper body only – up to 15 minutes \* Lower body only – up to 15 minutes \* Full bath – up to 30 minutes \* If no assistance needed, enter – 0.” Ibid. The bathing section allows for the RN to enter any amount “up to” 30 minutes for a full bath, whereas in the Meal section the assessment only allows the RN to enter a minimum of 10 minutes per meal. There does not appear to be any document in evidence or testimony provided by Latosh indicating that an RN administering the assessment has the discretion to go below the 10 minutes per meal guideline, just like an RN could not go above the 30 minutes per bath guideline. Therefore, applying the 10 minutes per meal minimum guideline to the 16 meals per week indicated in the assessment, the total minutes would be increased from 80 minutes to 160 minutes.

An area of additional concern is the complete lack of evidence in the record of the change in Petitioner's condition that warranted a reduction in PCA services. When

benefits are being reduced or terminated, it is the obligation of the managed care organization to put forth a specific explanation to justify the change in benefits. On page 11 of the assessment, in the nursing summary section, it instructs the RN to "be sure to include any changes in the member's condition that warrant a change in his/her service hours." (R-1 at 11). In that section Latosh wrote:

PCA/CIS assessment was completed in members home on 02/06/24. The member is a 12 year old English speaking female who lives with her mother and brother in a private house. Members mother was present during the assessment. Members mother said that member is nonverbal, but member was able to answer questions using full sentences. Member was alert and oriented to person and place, but not time. Members short term and procedural memory are intact as evidenced by being able to recall what she had for dinner yesterday and by being able to detail steps how to dress. Member requires hands on assistance with bathing, dressing, personal hygiene, toileting and feeding. Member currently approved for PPP services of 19 hours per week. PCA assessment tool score is 11.5. Members PCP requested increase of PPP service hours. Recommend denying requested increase of service hours and reducing PPP services from 19 to 12 hours per week, 10 individual and 2 group.

Latosh did not provide any description or analysis of the change in Petitioner's condition that warranted a change in their PCA hours. In order to understand the reason behind the reduction in PCA hours, there must be evidence and/or testimony specifically addressing the change in Petitioner's condition that warranted the change.

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 further develop the record regarding the meal section of the assessment and for Horizon to specifically address the change in Petitioner's condition, as detailed herein.

THEREFORE, it is on this 30th day of DECEMBER 2024,

ORDERED:

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

*Gregory Woods*

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