



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

B.B.

PETITIONER,

v.

HORIZON NJ HEALTH,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 10572-2024

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. Both the Petitioner and Respondent filed Exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is July 7, 2025, in accordance with an Order of Extension.

This matter arises from Horizon NJ Health's (Horizon) assessment of Personal Care Assistance (PCA) hours for Petitioner that resulted in the reduction of the petitioner's PCA hours from fourteen hours per week to zero hours per week. Petitioner appealed the termination, 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

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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.

Tara Sanchez, a Registered Nurse, testified on behalf of the Respondent at the Fair Hearing. On March 6, 2024, Sanchez, performed a reassessment of Petitioner's PCA services to determine the hours of care needed. ID at 3. She found that the Petitioner is moderately cognitively impaired, requiring repeated reminders to initiate, perform or self-direct activities. (R-1 at 3.) She also found that the Petitioner is moderately impaired in their decision-making ability because although they could correctly answer their name and date of birth, their decision-making ability was impaired as they could not pick out weather-appropriate clothing and could not describe the process for washing their hands without verbal prompting. Ibid. The Petitioner is diagnosed with verbal apraxia, OCD, Asperger, ADHD, intellectual disability, and autism. ID at 3.

Sanchez noted that the Petitioner did not require hands-on assistance with at least three ADLs. Prior to this assessment the Petitioner had been receiving fourteen hours per week of PCA/PPP services. Id. She stated that the Petitioner improved from their 2023 assessment where they needed assistance with bathing. Id. In explaining how the

Petitioner improved, Sanchez stated that the improvement was in bathing and that it was previously reported the Petitioner needed assistance with bathing, whereas during this assessment, it was reported that they were independent in bathing. Id. However, on cross-examination it was pointed out that when completing the bathing part of the assessment, Sanchez indicated that B.B. required supervision/oversight in bathing. Id. The petitioner's father indicated that the Petitioner needs assistance with their hair and that their mother has to wash their hair and dry their hair, not their body and do their nails. Id. The Petitioner's mother also has to clean their nails. Id. Sanchez does not know why that was not reported. Id. She said three hands-on ADLs were needed for service or one maximal hands-on ADL. Id.

At the hearing, Jennifer Moran, RN, also testified for Horizon regarding the reassessment she conducted using the PCA Tool. Id. at 6. In February 2025, Nurse Moran went to Petitioner's home and asked all of the questions on the PCA tool. Ibid. When they got to the bathing part, the parents stated that the Petitioner needs assistance getting the shampoo out of their hair which their mother helps them do in the sink every other day. Ibid. Apart from this, they do bathe themselves independently. The personal hygiene section was also different from the previous assessment. Ibid. The parents told her that the Petitioner needed assistance brushing their teeth. Ibid. Moran testified that the parents also said they soak the Petitioner's foot because of a toenail fungus every other day. Ibid. As far as dressing, the Petitioner is able to dress themselves and usually wears slip-on shoes. Ibid. They need assistance tying their shoes when they wear laced shoes, a couple of times a month, but the Petitioner does not usually wear them. Ibid.

The Petitioner's father, S.B., testified for the petitioner. Id. at 8. He noted that his son's condition had not changed since 2019, when he was first assessed as eligible for fourteen hours of services, and as such he does not understand the reasoning underlying

the termination of services. Ibid. He described the Petitioner's need for hands-on assistance various ADLs, including personal hygiene, bathing, and attending doctor's appointments, due to cognitive and communication impairment. Ibid.

In order to qualify for PCA services "Members must be 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." (R-2 at 3). In the Initial Decision, the Administrative Law Judge (ALJ) found the Petitioner requires hands-on assistance with multiple ADLs: teeth, mouth, nails and hair. ID at 8. Therefore, the member qualifies for PCA services. The ALJ also found that the Petitioner's condition has not changed since they were previously assessed in 2019 and that as such they should still be eligible for fourteen hours of PCA services a week. Ibid. I agree.

The Petitioner is moderately cognitively impaired in his decision-making ability and requires repeated reminders to initiate, perform or self-direct activities. Id. at 10. Although the Petitioner can physically dress themselves, their impaired decision-making ability prevents him from picking out weather-appropriate clothing. Id. at 11. The Petitioner requires hands-on assistance in the care of their teeth and mouth and requires hands-on assistance with brushing their teeth daily. Ibid. The Petitioner also requires hands-on assistance in grooming such as taking care of their hair, and needs hands-on assistance to wash all of the shampoo and conditioner out of their hair. Ibid. Additionally, the Petitioner requires hands-on assistance in grooming for their nail care. Ibid. The Petitioner's mother soaks their foot every other day and applies creams to their feet. Ibid. Finally, the Petitioner's parents must accompany and transport the Petitioner to all of the Petitioner's appointments as they cannot go independently due to their cognitive and communication impairment. Ibid. The parents provide hands-on assistance to the

Petitioner during these appointments. Ibid. While assistance with attending medical appointments alone is not a basis for establishing eligibility for PCA, and as such is not included in the PCA assessment tool, in the context of the petitioner requiring hands-on assistance with other ADLs it is an appropriate service to receive as part of the PCA benefit.

The Petitioner's diagnoses resulting in the need for PCA services are Aspergers syndrome, apraxia of speech, OCD, pervasive developmental disorder, expressive language disorder, learning disability, AOHO, psychiatric disorder or problem, and borderline psychosis. The Petitioner's diagnoses and condition have not changed since they first were found eligible for PCA/PPP services. As such, the ALJ granted the Petitioner's appeal and reversed Horizon's termination of Petitioner's fourteen hours per week of PCA services.

In their exceptions, Horizon argues that the Petitioner does not have functional limitations, but rather requires supervision. This argument lacks merit as the Petitioner requires hands-on assistance in the care of their teeth and mouth and requires hands-on assistance with brushing their teeth daily. ID at 11. The Petitioner also requires hands-on assistance in grooming such as taking care of their hair, and needs hands-on assistance to wash all of the shampoo and conditioner out of their hair. Ibid. Additionally, the Petitioner requires hands-on assistance in grooming for their nail care. Ibid. The Petitioner's mother soaks their foot every other day and applies creams to their feet. Ibid. Finally, the Petitioner's parents must accompany and transport the Petitioner to all of the Petitioner's appointments as they cannot go independently due to their cognitive and communication impairment. Ibid. The parents provide hands-on assistance to the Petitioner during these appointments. Ibid. In their exceptions, Horizon also took issue with the ALJ finding the Petitioner's father to be the most credible witness. Credibility is

best just by the finder of fact, who is the ALJ, as they have the opportunity to see and hear them testify. Discretion in credibility determinations is rightfully afforded to the ALJ in these matters. The Petitioner also filed exceptions, which mostly countered the Respondent's exceptions, and as such do not require further discussion here.

Given this, and as Horizon has not adequately explained the change in Petitioner's condition that warranted the reduction in hours, I find that no reduction in PCA hours was appropriate, and Horizon should have maintained the previously approved PCA hours.

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 7th day of July 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED, as set forth herein.

Gregory Woods

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