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

J.P.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

FIDELIS CARE,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 07515-24

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence, and the Initial Decision in this matter. Neither Party filed exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is February 13, 2025, in accordance with an Order of Extension.

This matter arises from the Fidelis Care's (Fidelis) decision to reduce Petitioner's Personal Care Assistant (PCA) services from thirty-two hours per week to twenty-three hours per week. The issue presented here is whether Fidelis correctly reduced Petitioner's PCA service hours under Medicaid regulations.

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, meal preparation, and light housekeeping. 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. Once PCA services are authorized, a nursing reassessment is performed every twelve months or more frequently, if warranted, to reevaluate the individual's need for continued care. N.J.A.C. 10:60-3.5(a)3. The assessments use the State-approved PCA Nursing Assessment Tool to calculate the hours.

In a recent unpublished opinion, the Appellate Division upheld the termination of PCA services, noting that a reassessment is required at least once every six months to evaluate an individual's need for continued PCA services. As a result, the Appellate Court found that "an individual who has received approval for eligible services is not thereby entitled to rely ad infinitum on the initial approval and remains subject to . . . reevaluation at least once every six months". J.R. v. Div. of Med. Assist. & Health Servs. and Div. of Disability Servs., No. A-0648-14 (App. Div. April 18, 2016). (Op. at 9).

Here, Petitioner received thirty-two hours of PCA services a week from April 1, 2023 to April 30, 2024. (R-3.) On February 19, 2024, a registered nurse, P. Buchell (Buchell), assessed Petitioner for PCA eligibility hours in Petitioner's home. (R-6.) Petitioner lives at home with their mother and two other adults. Ibid. Petitioner consented to allow Buchell to speak to their mother because of their limited speech. Ibid. Petitioner's

diagnoses include autism, DMI, obesity, epilepsy, and blindness to the right eye/detached retina. Ibid. Petitioner requires hands-on assistance with ambulating, bathing, dressing, and toileting. Ibid. Petitioner's family provides informal support for all Instrumental Activities of Daily Living (IADL). Ibid. Petitioner's mother described Petitioner as having difficulties reading small print and communicating because of their limited speech. Ibid. Petitioner's mother denied any ER visits, hospitalization or falls within the last 90 days. Ibid. Buchell computed the hours required to provide those services and determined that Petitioner needed twenty-three PCA service hours weekly. Ibid.

Petitioner appealed for the reduction in PCA services. (R-2.) Two physicians, Yasser Soliman and Jim Wood, reviewed the PCA Assessment Tool and supporting documents as Petitioner's care needs, at the direction of Fidelis, and affirmed that Petitioner was entitled to twenty-three hours of PCA services per week. Ibid.

On September 25, 2024, Fidelis conducted a new face-to-face assessment because six months passed since the February 19, 2024 assessment. (R-11.) Fidelis assigned a different nurse, Beth Sylester (Sylester), to conduct the September 2024 assessment. Ibid. Sylester also concluded that Petitioner is entitled to twenty-three hours of PCA services per week. Ibid.

Petitioner contested the February 19, 2024 assessment and the matter was transmitted for a fair hearing. A hearing was conducted on October 16, 2024. ID at 1. During the fair hearing, testimony established that Petitioner had worked part-time out of the home at a laundry facility for the last ten years under the Community Based Services program. ID at 2. Petitioner's mother cross-examined Buchell regarding her allocated time for the categories of services identified on the PCA Assessment Tool. ID at 5. Buchell credibly detailed how she calculated the allotted time, with consideration of the description of the categories of service and the particular needs of Petitioner. Ibid.

Petitioner's mother asserted that in her opinion the services could take more time than allotted and that Petitioner could benefit from the thirty-two hours of PCA services that they were previously provided. Ibid

The Administrative Law Judge (ALJ) found that no evidence was presented that twenty-three hours of PCA services each week was insufficient to meet Petitioner's needs and that it was necessary for Petitioner to have thirty-two hours of PCA services per week to meet his needs. Ibid. While Petitioner's mother disagreed with the number of minutes provided per task and asserted that Buchell's allotment of time per task was insufficient, no credible evidence was presented to refute the testimony and determinations of the medical professionals who assessed petitioner's need for PCA services. Ibid. The ALJ concluded that Petitioner is not entitled to more than the authorized number of PCA hours detailed on the Personal Care Assistant Nursing Assessment Tool, computed to be twenty-three hours. ID at 6.

I agree with the ALJ's determination that Fidelis correctly determined the number of PCA hours Petitioner was entitled during the February 19, 2024 assessment, based on the level of assistance Petitioner needed. Fidelis used the PCA tool specifying the range that may be allotted for each category, which complies with the regulation's express directive that health management providers calculate numerical scores based on Petitioner's need.

Based on my review of the record and based on the facts contained therein, I find that Fidelis properly reduced Petitioner's PCA hours pursuant to Medicaid regulations based on the February 19, 2024 assessment. Petitioner's PCA hours should be set at twenty-three hours per week. Should Petitioner's condition change, they may request a new reassessment.

THEREFORE, it is on this 7th day of FEBRUARY 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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