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

M.C.,	:	
PETITIONER,	:	**ADMINISTRATIVE ACTION**
v.	:	**FINAL AGENCY DECISION**
HORIZON NJ HEALTH,	:	**OAL DKT. No. HMA 08585-25**
RESPONDENT.	:	

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 7, 2025, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt.

This matter concerns the termination of Petitioner's Private Duty Nursing (PDN) hours by Horizon NJ Health (Horizon), from twelve hours per day, seven days per week. At this time, Petitioner is almost two years old, was born prematurely with low birth weight and has been diagnosed with bronchopulmonary dysplasia, apnea, and retinopathy associated with prematurity, twin-to-twin transfusion syndrome, and bilateral inguinal

hernias. (R-8). Horizon previously authorized PDN services for Petitioner for twelve hours per day, seven days per week, as a result of a hospital discharge plan, even though the PDN tool score did not suggest PDN eligibility. ID at 3. Petitioner's parents request that Horizon authorize eight hours per day for five workdays a week to accommodate their employment duties. Ibid. On May 17, 2024, Horizon's internal appeal review upheld the denial of PDN services. (R-2). On May 31, 2024, Maximus performed an external appeal, which upheld Horizon's denial of PDN services. (R-3).

The regulations state that the purpose of PDN services is to provide "individual and continuous nursing care, as different from part-time intermittent care, to beneficiaries who exhibit a severity of illnesses that require complex skilled nursing interventions on a continuous ongoing basis." N.J.A.C. 10:60-5.1(b). To be considered in need of EPSDT/PDN services, "an individual must exhibit a severity of illness that requires complex intervention by licensed nursing personnel." N.J.A.C. 10:60-5.3(b). "Complex means the degree of difficulty and/or intensity of treatment/procedures." N.J.A.C. 10:60-5.3(b)(2). The regulations define "skilled nursing interventions" as "procedures that require the knowledge and experience of licensed nursing personnel, or a trained primary caregiver." N.J.A.C. 10:60-5.3(b)(3). Further, N.J.A.C. 10:60-5.4(b) sets forth the criteria to be met in order to receive PDN services:

> **(b)** Medical necessity for EPSDT/PDN services shall be based upon, but may not be limited to, the following criteria in (b)1 or 2 below:
>
> **1.** A requirement for all of the following medical interventions:
>
> **i.** Dependence on mechanical ventilation;
>
> **ii.** The presence of an active tracheostomy; and
>
> **iii.** The need for deep suctioning; or
>
> **2.** A requirement for any of the following medical interventions:
>
> **i.** The need for around-the-clock nebulizer treatments, with chest physiotherapy;

ii. Gastrostomy feeding when complicated by frequent regurgitation and/or aspiration; or

iii. A seizure disorder manifested by frequent prolonged seizures, requiring emergency administration of anti-convulsants.

Additionally, the regulation goes on to exclude certain criteria that do not rise to the level of PDN services unless the criteria above is met:

> (d) Services that shall not, in and of themselves, constitute a need for PDN services, in the absence of the skilled nursing interventions listed in (b) above, shall include, but shall not be limited to:
>
> 1. Patient observation, monitoring, recording or assessment;
> 2. Occasional suctioning;
> 3. Gastrostomy feedings, unless complicated as described in (b)1 above; and
> 4. Seizure disorders controlled with medication and/or seizure disorders manifested by frequent minor seizures not occurring in clusters or associated with status epilepticus.
>
> N.J.A.C. 10:60-5.4(d).

Once medical necessity is established, the following criteria impact the extent of authorized PDN hours:

> 1. Available primary care provider support;
>   i. Determining the level of support should take into account any additional work related or sibling care responsibilities, as well as increased physical or mental demands related to the care of the beneficiary;
> 2. Additional adult care support within the household; and
> 3. Alternative sources of nursing care.
>
> N.J.A.C. 10:60-5.4(c).

During the fair hearing, registered nurse Kimberly Schmidt (Nurse Schmidt) testified for Horizon. To complete the PDN Acuity Tool, Nurse Schmidt reviewed the progress report, nursing notes from March 8, 2024, through April 9, 2024, Petitioner's plan of care, and a letter of medical necessity. ID at 4. Nurse Schmidt completed the assessment on April 11, 2024. (R-6). Nurse Schmidt acknowledged that there is a need

for skilled nursing services in the following categories on the PDN Tool: skilled nurse clinical assessment, two to three times every four hours; rehabilitation management including activities of daily living and communication impairment, as Petitioner has retinopathy; medication administration, less often than every four hours; nutrition management, gastronomy tube and enteral nutrition (pump or bolus); oxygen management, needed routinely; and safety management, aspiration precautions and supervision of licensed practical nurse or aide. ID at 5. Nurse Schmidt also noted that Petitioner did not need the following skilled nursing services in other categories assessed by the PDN Tool: routine blood draws, bowel or bladder management as the member is an infant requiring expected diaper changes without skilled nursing care, chest physiotherapy, infusion access or specialty medication management, intravenous-infusion care, nebulizer management, seizure management, respiratory management as oxygen management captures the member's level of respiratory support needed, suctioning, tracheostomy management, or wound management. Ibid. A minimum score of nineteen on the PDN Tool is required to determine PDN hours. The PDN Tool completed by Nurse Schmidt scored less than nineteen, which led to Horizon's denial. Ibid.

During the fair hearing, Petitioner's father highlighted that Petitioner has issues with regurgitation, making nutrition complicated using a gastrostomy tube. ID at 7. However, the Administrative Law Judge (ALJ) pointed out that the nursing notes and progress reports do not reveal frequent instances of such complications or negative responses to feeding. Ibid. (R-9; R-11).

In the Initial Decision, the ALJ noted that the applicable regulation does not limit the considerations for PDN services to those medical issues specifically identified in the regulation. ID at 10. The ALJ concluded that Petitioner does not have the medical

conditions identified in the regulation such as a seizure disorder, frequent regurgitation, or the need for around-the-clock nebulizer treatments or chest physiotherapy. Ibid. The ALJ further concluded that Petitioner does not require mechanical ventilation or a tracheostomy and requires no deep suctioning. Ibid. Also, the medical records fail to reveal another area of medical concern that Horizon did not consider. Ibid. Lastly, as there was not a finding of medical necessity for PDN services, Horizon need not weigh the amount of adult care support, other skilled nursing care, or the care related to Petitioner's sibling within the household. Ibid. Ultimately, the ALJ concluded that Horizon thoroughly considered Petitioner's clinical status and that Horizon's April 11, 2024 determination that Petitioner is ineligible for PDN services is correct. ID at 11.

Here, Horizon and the ALJ place emphasis on Petitioner's PDN Acuity score to conclude that the termination of PDN hours is appropriate in this matter. However, it is important to note that the PDN Acuity Tool used by Horizon appears nowhere in state regulations and is neither mandated nor endorsed by DMAHS. While Horizon is permitted to use such a tool to assist with their assessment of a member's need for services, the fact that a member's score on such a tool is below a given threshold does not in itself demonstrate that the member does not qualify for any specific amount of PDN services. Rather, the MCO must demonstrate that the member does not qualify for PDN hours with reference to the underlying medical necessity standard, as articulated in state regulations. It is Horizon's burden to demonstrate that a reduction or termination of PDN hours is appropriate. See Atkinson v. Parsekian, 37 N.J. 143, 149 (1962); and Cosme v. Figueroa, 258 N.J. Super. 333, 338 (Ch. Div. 1992).

The ALJ notes that "Horizon's review failed to reveal unique characteristics of M. C. that required consideration outside the PDN Tool's parameters." ID at 7. But, as is described above, a given score on Horizon's PDN Acuity Tool does not in itself

demonstrate, or even create a presumption, that the Petitioner does not qualify for PDN services. As such, it is not necessary that there be unique or unusual circumstances to "overturn" the findings of the Tool. Rather, the Tool is merely one piece of evidence, which is not accorded any special weight, and which must be considered along with other evidence against the underlying medical necessity standard.

In addition, the Initial Decision does not directly address what has changed in Petitioner's clinical condition since PDN services were previously authorized. The Initial Decision does note that at the time of that initial authorization, the Petitioner did not have a qualifying score on Horizon's PDN acuity tool; rather he qualified for services based on a hospital discharge plan. ID at 3. However, this underscores the broader point made above – that a score on the Horizon's PDN acuity tool is not dispositive in itself but rather must be considered in the broader clinical context and in reference to the underlying medical necessity standard articulated in state regulations. When the Petitioner was evaluated previously, he was found to meet the medical necessity standard, despite not having a score on the PDN acuity tool that would typically lead to authorization for PDN services. A key question in this matter is whether and how his clinical condition changed in the intervening weeks to justify a different outcome.

As such, in this case, the record needs to be further developed to determine whether the termination of Petitioner's PDN services is appropriate based on the totality of available evidence. As part of this determination, Horizon must clarify what has changed with Petitioner's medical condition to warrant a termination of PDN services.

Thus, based on the record before me and for the reasons enumerated above. I hereby REVERSE the Initial Decision and REMAND the matter to OAL to clarify the above-mentioned issue.

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

ORDERED:

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

Gregory Woods

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