

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).

Petitioner is a nineteen-year-old diagnosed with cri-du-chat syndrome with severe intellectual disability, microcephaly, incontinence, dysphagia, is on tube feeds, and is wheelchair bound and non-verbal. ID at 2. On September 5, 2024, Kimberly Schmidt, RN, completed an assessment of the Petitioner using the PDN Acuity Tool. Id. at 3. In completing the assessment, Schmidt also reviewed relevant medical documents, including nursing notes, the treatment plan of care, and the letter of medical necessity from the Petitioner's treating physician. Ibid. The Tool generated a score of twenty-one, which equates to between four and eight PDN hours. Ibid. On February 13, 2025, a second assessment was completed by Schmidt. Ibid. The summary of the assessment indicated that there was no known seizure activity. Ibid. The Tool noted one difference from the Tool Schmidt completed in September 2024. Ibid. The difference, as reflected in the Tools, was based upon the Petitioner's use of a nebulizer treatment. Ibid. This resulted in an increase in the overall score to twenty-two. Schmidt's assessments also considered the Petitioner's home life. Ibid. During the first assessment, the Petitioner's records indicated that their mother, D.P., is their primary caregiver and works twelve-hour shifts from seven a.m. to seven p.m., but her schedule can vary. Ibid. The Petitioner's mother is a single, working parent who states that she is the sole caregiver. Id. at 4. D.P. testified that she works twelve hours, six or seven days per week, and states that she needs twenty-four-hour care for the Petitioner to be able to work. Ibid. She stated that the Petitioner chokes on their own saliva and that bathing them requires two people. Ibid.

Dr. Sariya Pacheco-Smith, M.D., a board-certified physician in pediatrics, testified at the Fair Hearing on behalf of Horizon. Ibid. Dr. Pacheco-Smith reviewed the medical records in this case and considered the Petitioner's family environment and determined that eight hours of PDN services was sufficient. Specifically, she pointed to the fact that the Petitioner was not on a ventilator, did not have a tracheotomy, and did not have multiple seizures, medication through a line or an extremely complicated case. Ibid. She concluded that eight hours can cover continuous overnight feeds. Ibid.

In the Initial Decision, the Administrative Law Judge (ALJ), found that Horizon had medically demonstrated that eight hours of PDN services is appropriate based on the acuity tool scores. I disagree. A given score on the PDN Acuity Tool is, in itself, an insufficient basis for making such a medical necessity determination. 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 or does not qualify for any specific amount of PDN services. Rather, eligibility for PDN services should be determined according to the underlying medical necessity standard, as articulated in state regulations. In this case, the record needs to be further developed to determine how many hours of PDN services the Petitioner is entitled to based on the underlying medical necessity standard, and not the score on Horizon's acuity tool.

Remand is also appropriate in this case because there are puzzling elements of the factual record that would benefit from clarification. In particular, it is unclear from the record why Horizon would initially offer twenty-four hours of PDN services a day for two weeks despite its conclusion was that twenty-four hours was not medically necessary and

then subsequently reduce this to 8 hours a day. This is highly atypical for a member newly requesting new services, and suggests there may be additional relevant factual information that is missing from the record.

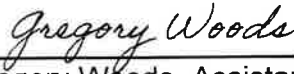
In this case, the record needs to be further developed to determine how many hours of PDN services the Petitioner is entitled to based on the medical necessity standard. In order to support this determination, the record should be further developed to clarify the timeline of PDN services requested and received by the Petitioner.

Accordingly, for the reasons set forth above, I hereby REVERSE the Initial Decision, and REMAND the matter to further develop the record, clarify on the timeline of PDN hours requested and received, and to directly assess the question of how many PDN hours based are appropriate based on the medical necessity standard.

THEREFORE, it is on this 15th day of SEPTEMBER 2025,

ORDERED:

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



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