



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).

During the fair hearing, registered nurse Christine D'Agostino (Nurse D'Agostino) testified for Horizon. Nurse D'Agostino performed the assessment and testified that Petitioner does not qualify under the PDN tool because Petitioner does not require skilled nursing. ID at 3. Nurse D'Agostino stated that Petitioner does not require tracheostomy management, suctioning, respiratory management, nebulizer management, or seizure management. Ibid. Nurse D'Agostino also testified that the administration and management of an insulin pump on a three-year-old did not meet the standards for PDN services. Ibid. The July 9, 2024, assessment also predicates the denial on the fact that Petitioner attends a medical daycare facility. Ibid. Nurse D'Agostino acknowledged that Petitioner is not attending such a facility, but she believed Petitioner had been approved for such care. Ibid.

Included in the documents provided by Horizon was a letter from Sydney Cwieka, a Pediatric Endocrinology Nurse, who is the nurse overseeing Petitioner's care for Type 1 diabetes. (R-7). The letter includes a list of the complications that could result from the failure to monitor Type 1 diabetes, such as retinopathy, nephropathy and an increased risk of heart attack and stroke. Ibid. Sydney Cwieka wrote that skilled nursing is medically necessary for the operation of the insulin pump, administration of short acting insulin via pump for meals and correction, to ensure that Petitioner has necessary supplies and medications, to respond to possible hypoglycemia and hyperglycemia events and to monitor all alarms, as Petitioner is too young to do these things. Ibid.

Notwithstanding the recommendation from Petitioner's nurse, Nurse D'Agostino

maintained the PDN services were not medically necessary to monitor the diabetes of a three-year-old child while at school all day. ID at 3.

Dr. Fatema Abidi also testified for Horizon and concurred with Nurse D'Agostino that Petitioner did not meet the requirements for PDN services. Ibid.

Petitioner's mother, Z.R., testified that many things could go wrong if someone is not keeping an eye on Petitioner's blood-sugar level. ID at 2. She testified that there is only one pediatric medical daycare center that she is aware of, which is over an hour away.<sup>1</sup> Ibid. She also testified that she received notice that Horizon would pay for medical daycare, but that Horizon would not pay for a PDN or a trained medical professional to be on the bus, which is over an hour ride each way. Ibid.

In the Initial Decision, the Administrative Law Judge (ALJ) found that the daycare provider that Petitioner's mother found near her home will not be responsible for this medical issue, nor will they agree to be trained to provide proper medical care. The only pediatric daycare available to Petitioner is over an hour's drive away and although Horizon will agree to pay for it, and for transportation, they will not provide a PDN for the one hour commute to and from the daycare center. ID at 4. Importantly, the ALJ also found that the July 9, 2024, denial of PDN services relies on the medical daycare that Petitioner is being provided, although no such services are being provided. Ibid. The Initial Decision concludes that Horizon's denial of PDN services is inappropriate, as Horizon provides no explanation as to how a three-year-old child with Type 1 diabetes is to monitor and respond to medical emergencies. ID at 7. Additionally, Horizon approved medical daycare but have not offered appropriate clinical supports for transportation to

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<sup>1</sup> Horizon provided a one-time authorization of PDN services in order to train someone at the child's local daycare center. The daycare provider refused to train their employees due to a liability concern with a three-year-old Type 1 diabetic on an insulin pump. ID at 2.

such medical daycare. Ibid. As a result of these conclusions, the Initial Decision Orders that Horizon's decision to deny PDN services be reversed and that such care should be provided at the existing daycare, or medical daycare with appropriate transportation, including a trained professional during the two plus hour commute. Ibid.

I agree with the ALJ that it is troubling that Horizon has approved Petitioner for medical daycare yet claim there is no medical necessity for skilled nursing care. These two determinations appear logically inconsistent. At their core, both require continuous nursing services.<sup>2</sup> Either Petitioner requires continuous nursing services, or they do not. Horizon has determined that Petitioner qualifies for pediatric medical daycare and therefore determined that Petitioner requires continuous nursing services, including while he is being transported to and from medical daycare. I agree.

Accordingly, and based on my review of the record, I hereby ADOPT the Initial Decision and FIND that Petitioner does qualify for PDN services at this time.

THEREFORE, it is on this 21st day of JULY 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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

<sup>2</sup> For Horizon's pediatric medical day care services policy, see <https://www.horizonnjhealth.com/providers/resources/policies/health-services-policies/long-term-care/pediatric-medical-day-care>