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DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

S.E.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	ORDER OF REMAND
	:	
HORIZON NJ HEALTH,	:	OAL DKT. No. HMA 03509-25
	:	
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. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is November 3, 2025, in accordance with an Order of Extension.

This matter arises from Horizon New Jersey Health’s (Horizon) decision to deny Petitioner’s request for continued Private Duty Nursing (PDN) Services of eight hours per day, seven days per week. R-1. Petitioner filed a request for an internal appeal which was reviewed and upheld on December 17, 2024. Ibid. Following the results of the internal review, Petitioner chose to pursue an external appeal through Maximus Federal Services, Inc. (Maximus). On February 7, 2025, Maximus recommended that Horizon’s decision to deny PDN services be upheld. R-2.

Petitioner, eleven years of age, has been diagnosed with inadequate oral intake, gastrostomy (g-tube), erythema of g-tube, failure to thrive, lung disorders, retinopathy of prematurity, stenosis of larynx, hypothyroidism, unspecified, hemangioma unspecified site, other specified muscle disorders, gastroesophageal reflux disease (GERD) without esophagitis, bilateral degenerative myopia, cerebral palsy and phimosis. R-2. In addition, Petitioner is bowel and bladder incontinent, non-ambulatory, non-verbal and is developmentally delayed. Ibid. In a letter dated November 5, 2024, Matthew J. Ryan, M.D., notes that Petitioner receives “the majority of his nutrition by g-tube” and PDN services are necessary “to support the administration of GI medications and also management of [Petitioner’s] enteral feeds.” R-6.

In reviewing the matter for a new authorization, Horizon determined that eight hours per day, seven days per week, was not medically necessary. R-1. On December 17, 2024, Horizon denied Petitioner’s request for continued PDN services and provided the following reason for its decision:

The request for continued 8 hours per day, 7 days per week of Private duty nursing (PDN) services for your child has been denied. We understand that your child has complex medical problems. Your child is not on a breathing machine. Your child does not have a seizure disorder. Your child has feeding problems. He takes some of his feeds by mouth and some through a stomach tube (gtube). Your child needs hands-on help with daily tasks. Your child needs aspiration (breathing in food or drink) precautions. Custodial care and health maintenance can be provided by a trained caregiver. Your child does not have any skilled needs. Based on this information your child will receive 8 hours per day, 7 days per week of skilled nursing for transitional care for three weeks. After 3 weeks private duty, nursing will be discontinued. This decision is based on Horizon NJ Health Policy 31C.089.02 Private Duty Nursing (PDN) and MCO CONTRACT: 4.2.6 EPSDT SERVICES. (R-1).

After Horizon’s internal review, Petitioner filed an appeal for an external review by an independent utilization review organization (IURO). The IURO reviewer explained that

Petitioner has been diagnosed with inadequate oral intake, g-tube, and erythema of g-tube. R-2. The reviewer also explained that Petitioner has not had any recent hospitalizations or decline from baseline, is tolerating feedings well via g-tube, does not have frequent or refractory seizures, does not have active respiratory failure or dependency on mechanical ventilation. Ibid. The reviewer explained that Petitioner's care includes observation and medications and that there is no evidence that continued nursing services would change Petitioner's health outcomes, condition or prevent illness. Ibid. Lastly, the reviewer explained that a trained caregiver could manage Petitioner's care. Ibid.

Following the IURO report, Petitioner filed an appeal with DMAHS, and the matter was transmitted to the Office of Administrative Law (OAL). After reviewing the evidence, the Administrative Law Judge (ALJ) found by a preponderance of the evidence that Petitioner's use of the g-tube has been significantly reduced and is only used to supplement his water intake which can be administered by a trained caregiver. ID at 4. The ALJ also found by a preponderance of the evidence that Petitioner's toileting program no longer requires skilled nursing because "it is a simple plan that has neither been recently implemented nor revised." Ibid. In addition, the ALJ determined that Petitioner's toileting needs do not require medical interventions such as in the use of a foley catheter or colostomy sites that may get infected and that there is no indication that Petitioner's incontinence requires skilled care. ID at 5. Based on these findings, the ALJ determined that Petitioner is ineligible for PDN services based on the reported status of his gastronomy feedings, the fact that Petitioner's toileting program has not been recently implemented or revised and based on caretaker unavailability. R-5, R-6.

During the fair hearing, Kelly Bethea, M.D. (Dr. Bethea) and Amy Casalnuovo, R.N. (Nurse Casalnuovo) testified for Horizon. ID at 3. Dr. Bethea testified that

Petitioner's toileting program had not been "recently initiated or revised and does not require skilled interventions to continue." ID at 3. Dr. Bethea also testified that Petitioner tolerates usage of the g-tube and caregivers implement this usage without any issues. Ibid. Nurse Casalnuovo testified that Petitioner eats food and consumes liquids orally including chips, soup, cereal, apple juice and water without complication and receives water through the g-tube. Ibid. Lastly, Nurse Casalnuovo agreed with Dr. Bethea's testimony that Petitioner's toileting program had not been initiated or revised. Ibid.

Included in the documentary evidence provided by Horizon was Petitioner's November 5, 2024, letter of medical necessity and nursing notes covering the period of November 11, 2024, through November 29, 2024. ID at 4. A review of the nursing notes shows that Petitioner is incontinent in bowel and urine and receives nutrition in addition to water through the g-tube. R-7.

Amanda Mulderrig (Ms. Mulderrig), a clinical nurse supervisor and C.R., Petitioner's caregiver, testified on behalf of Petitioner. Ms. Mulderrig testified that Petitioner used the g-tube to take in water and showed success with the toileting training program. ID at 4. C.R. testified that she works forty hours per week and would have to resign without PDN services. Ibid. C.R. also testified that Petitioner has two alternate caregivers but one had recent surgery and the other also works forty hours per week. Ibid.

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).

In this case, the record needs to be further developed to determine whether the denial of Petitioner's PDN services is appropriate based on these set of facts. In particular, to make this determination, Horizon should provide clarification as to how Petitioner's condition has changed since previously being found to meet the requirements for PDN services. A review of the December 2024 letter to Petitioner denying continued PDN services lacks any specifics regarding a change to Petitioner's current medical condition. When reducing approval for ongoing services, managed care organizations must provide this information in a plain-language accessible format.

In addition, on remand the record should be expanded to further determine whether the December 2024 assessment fully and accurately reflects Petitioner's current medical condition. For example, the nursing notes covering the period of November 11, 2024, through November 29, 2024, consistently list that Petitioner is bowel and urine incontinent, but this information was not checked off in the December 16, 2024, PDN Acuity assessment. R-5, R-7. As such, a key question in this matter is whether and how Petitioner's clinical condition changed in the intervening weeks to justify a different outcome.

Accordingly, for the reasons set forth above and those contained in the Initial Decision, I hereby REVERSE the Initial Decision and REMAND the matter to the OAL to clarify the above-mentioned issues. Petitioner should be reassessed with an accurate review of his medical condition to determine if PDN services continue to be warranted.

THEREFORE, it is on this 3rd day of NOVEMBER 2025,

ORDERED:

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

Gregory Woods

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