



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Medical Assistance and Health Services

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

C.M.

PETITIONER,

v.

WELLPOINT,

RESPONDENT.

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ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 02151-26

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. Neither party has filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 31, 2026.

This matter arises from Wellpoint's assessment of Personal Care Assistance (PCA) hours for Petitioner. Petitioner appealed Wellpoint's denial of PCA hours, and the matter was transmitted to the OAL for a hearing. Upon completion of the assessment, Wellpoint determined that Petitioner was ineligible for PCA services. The Initial Decision upheld the denial as the Administrative Law Judge (ALJ) found that Petitioner was ineligible for PCA services because Petitioner failed to meet the regulatory requirements

to qualify for these services.¹

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, and ambulation. 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. The regulations provide that PCA services are only warranted when the beneficiaries are "in need of moderate, or greater, hands-on assistance in at least one activity of daily living (ADL), or minimal assistance or greater in three different ADLs, one of which must require hands-on assistance." N.J.A.C. 10:60-3.1(c). Additionally, instrumental activities of daily living (IADL) "such as meal preparation, laundry, housekeeping/cleaning, shopping, or other non-hands-on personal care tasks shall not be permitted as a stand-alone PCA service." N.J.A.C. 10:60-3.1(c)(1). The assessments use the State-approved PCA Nursing Assessment Tool (PCA Tool) to calculate the hours.

On September 29, 2025, Diane Gigliotti (Nurse Gigliotti), BSN RN performed an assessment of Petitioner to determine if she was eligible for PCA services. R-G. Petitioner, seventy-one years of age was diagnosed dementia and COPD. Ibid. After being assessed by letter dated October 2, 2025, Wellpoint notified Petitioner of its

¹ The Initial Decision states that recommended decision of the Office of Administrative Law, should be deemed adopted as the Final Agency Decision, pursuant to 42 U.S.C. §1396(e)(14)(A), N.J.S.A. 52:14B-10(f), and N.J.A.C. 1:1-18.9, upon its filing with the Division of Medical Assistance and Health Services on July 17, 2026. However, the Initial Decision was rendered under a procedural deficiency, unknown to the OAL at the time of issuing the Initial Decision.

decision to deny her request for PPP services.² R-C. Wellpoint explained the denial as follows:

The reason for this action is that we cannot say yes for 56 hours of PPP (Personal Preference Program) services every week. One of our nurses spoke to you. You can take care of most of your activities of daily living. There is no change in your thinking. Based on all this we do not think you need help with activities of daily living. We used the NJ LTSS Personal Care Assistant Nursing Assessment Tool to decide this.

Petitioner filed an internal appeal and by letter dated October 13, 2025, Wellpoint reaffirmed its denial for PCA/PPP services. R-I. Wellpoint explained the basis for denying PCA services as follows:

The reason for this action is that we still cannot say yes for 56 hours of PPP (Personal Preference Program) services every week. We do not believe this service is medically necessary. One of our nurses spoke to you. You can take care of most of your activities of daily living. There is no change in your thinking. Based on all this we do not think you need help with activities of daily living.

Petitioner challenged Wellpoint's denial and requested a Fair Hearing which took place on June 26, 2026. ID at 2. The record closed the same day. Ibid.

At the hearing, Nurse Gigliotti testified for Wellpoint regarding the assessment she conducted using the PCA Tool. ID at 2. Nurse Gigliotti observed that Petitioner was alert and awake during the assessment. ID at 3. Nurse Gigliotti notes that Petitioner was able to recall three unrelated items after five minutes. Ibid. Petitioner was able to select her clothes but needed assistance selecting appropriate clothes related to the season. Ibid. Petitioner demonstrated procedural memory as she was able to provide the steps needed to make a peanut butter and jelly sandwich. Ibid. Petitioner attended the Silver Sneakers

² PPP stands for the New Jersey Personal Preference Program, which gives program members flexibility, choice and control over how their personal care services are managed and delivered.

program, was able to decide what she wanted to eat, did not need reminders to get off of the toilet or that she should not watch too much television.³ Ibid. Nurse Gigliotti also noted that Petitioner did not need assistance with most ADLs such as ambulation, transferring from one position to another, including bed and bath, feeding and eating, adjusting or changing position in a chair or bed, toileting or personal hygiene. Ibid. Petitioner did need assistance with bathing, which she did not do every day. Ibid. Overall, Nurse Gigliotti determined that Petitioner was minimally impaired with regard to cognition and decision making and assessed her as needing sixty minutes per week for assistance with cuing in new and specific situations, ten minutes five days per week with bathing, five minutes per day, seven days per week with dressing because she needed assistance in selecting clothes and housekeeping which Nurse Gigliotti awarded forty minutes per week. Ibid. The total score reached using the PCA tool was 3.08 hours assistance. Ibid.

S.S., Petitioner's daughter-in-law also testified. ID at 4. S.S. testified that she and her husband have lived with Petitioner for over two years and assist Petitioner with her daily tasks. Ibid. S.S. acknowledges that Petitioner is not physically impaired, is able to walk and talk independently and attends a day program but must be driven there and back. Ibid. S.S. testified that Petitioner has the capacity of a child, is unable to make decisions on her own, is unable to follow simple directions and needs constant reminders for all tasks. Ibid. S.S. also testified that Petitioner is able to feed herself but will not eat if the food is not placed in front of her, does not take her medicine independently and needs assistance with showering. Ibid. S.S. disagrees with Nurse Gigliotti's account that Petitioner was able to recall the three words presented. Ibid. S.S. testified that although

³ SilverSneakers is a fitness and wellness program offered at no additional cost to seniors 65 years of age or older that are on eligible Medicare plans. The goal of the program is to help seniors get active, fit, and connect with others. <https://tools.silversneakers.com>.

Petitioner knows how to make a sandwich, Petitioner has short term memory deficits. Ibid. As a result, Petitioner does not know when her medical appointments are scheduled and is unable to understand what information her doctors are relaying to her. Ibid. S.S. further testified that she and her husband must continually tend to Petitioner, that she cannot be left alone because she previously took a bus to Philadelphia and got into a car with a stranger. Ibid. Lastly, S.S. testified that caring for Petitioner is extremely difficult for her and her husband. Ibid.

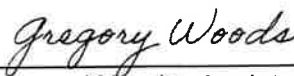
In the Initial Decision, the Administrative Law Judge (ALJ) determined that S.S. acknowledged that Petitioner is able to perform "physical tasks associated with ADLs." ID at 8. The ALJ also determined that Petitioner's limitations involve her memory and knowing what actions must be taken which is when the family offers assistance. Ibid. However, this type of assistance the ALJ determined "does not require moderate or greater hands-on assistance with an ADL or minimal or greater assistance with three ADLs, with one requiring hands-on assistance." Ibid. The ALJ further determined that even if Nurse Gigliotti assessed the issues involving Petitioner's memory incorrectly, Petitioner does not need the type of physical assistance required by the regulation. Ibid. Lastly, the ALJ acknowledges the challenges S.S. and her husband face in caring for Petitioner but based on the regulations "is constrained to conclude that Petitioner is ineligible for PCA services." Ibid. I agree. While Petitioner may need limited assistance with bathing and getting dressed, her procedural memory is intact. Petitioner does not use any durable medical equipment, attends the day program at the YMCA from 8:00 a.m. to 1:00 p.m. Tuesday through Friday and participates in the SilverSneakers program. Based on these facts, and the fact that Petitioner did not require hands-on assistance and assistance with ADLs in accordance with the regulations, Petitioner was not eligible for PCA services.

Accordingly, for the reasons set forth above, I hereby ADOPT the Initial Decision and FIND that Wellpoint's denial of Petitioner's request for PCA services was appropriately denied in this matter.

THEREFORE, it is on this 25th day of AUGUST, 2026

ORDERED:

That the Initial Decision is hereby ADOPTED as set forth therein.



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