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Division of Medical Assistance and Health Services
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Assistant Commissioner

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

M.E.,	:	
PETITIONER,	:	**ADMINISTRATIVE ACTION**
v.	:	**FINAL AGENCY DECISION**
HORIZON NJ HEALTH,	:	**OAL DKT. No. HMA 16970-24**
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 January 29, 2026, in accordance with an Order of Extension.

This matter concerns the reduction of Petitioner's Private Duty Nursing (PDN) hours by Horizon NJ Health (Horizon), from twenty-four hours per day, seven days per week, to twenty hours per day, seven days per week. At this time, Petitioner is fourteen years old and suffers from anoxic brain damage, cerebral palsy, quadriplegia, disorders of the lung, epilepsy, cortical blindness, dysphagia, hip dysplasia, Eustachian tube

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dysfunction, and urinary incontinence all stemming from an accidental drowning. (R-14). The Petitioner is bedbound, has a tracheostomy, and uses a BiPAP machine to help him breathe during sleep. Ibid. He also receives all of his nutrition through a gastrostomy tube (g-tube). Ibid. By letter dated September 20, 2024, Horizon notified the Petitioner that his PDN services were being reduced from twenty-four hours per day, seven days a week, to twenty hours per day, seven days a week. ID at 2. The Petitioner appealed this reduction of PDN hours. 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).

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 ten days of nursing notes provided (R-7 through R-13; R-16; R-17; R-20), as well as the letter of medical necessity (R-14), plans of care (R-6; R-22), and a medication profile report (R-15). Schmidt also reviewed the Client Progress Summary Report, dated September 6,

2024, prepared by BAYADA Home Health Care after an in-home visit with the Petitioner. (R-19.) Nurse Schmidt has never met or evaluated the Petitioner herself. Nurse Schmidt completed the assessment on September 19, 2024. (R-1). Nurse Schmidt acknowledged that there is a need for skilled nursing services in the following categories on the PDN Tool: clinical assessment two to three times every four hours; communication impaired; chest physiotherapy less often than every four hours, but at least daily; medication administration less often than every four hours; total self-care deficit; nebulizer treatment and management every four to twenty-four hours; nurse seizure management-seizures, mild, three or less times per week requiring nursing management; enteral nutrition (pump or bolus) administration of feeding, residual check, adjustment or replacement of tube, and assessment and management of complication; gastrostomy tube care; oxygen humidification, tracheal direct, without ventilator; activities of daily living support needed for more than four hours per day to maximize a patient's independence; communication deficit management; immobilizer management with removal and replacement every eight hours or more often; lift, total, weight of 55 to 125 pounds; range-of-motion exercises every eight hours or more often; BPAP or CPAP management for eight hours or more per day; aspiration precautions, monitoring, and management; clinical monitoring and management while attending activities outside of the home environment; supervision of licensed practical nurse or aide, suctioning (tracheal) eleven times or more per day, or every two hours or more often; and tracheostomy management without complications. Ibid. The Petitioner does not require routine blood draws, infusions, or intravenous care, and does not require skilled wound care. Ibid.

Nurse Schmidt also noted numerous changes in the Petitioner's conditions since his last assessment. ID at 4. While the Petitioner continues to receive his nutrition through the g-tube, he was at one point receiving feedings more frequently however, he now

receives bolus feedings four times per day. Ibid. It was also reported that at the time of the assessment the Petitioner had not suffered a seizure since July 20, 2023. Ibid. Additionally, the Petitioner did not have any emergency room visits or hospitalizations, as reflected in the nursing notes reviewed by Nurse Schmidt. Ibid.

During the fair hearing, Petitioner's father V.E. highlighted that he is the only trained caregiver and only other member of the household. Ibid. He testified that as the sole adult household member, he is responsible for maintaining the entire household, including producing income, doing chores, paying bills, coordinating appointments, and keeping track of and obtaining supplies for M.E.'s care. Ibid.

In the Initial Decision, the ALJ found that the time spent on seizure management was less than what was required from the previous assessment, that the Petitioner's condition slightly improved, and that the Petitioner's feedings have changed significantly from a continuous feed, to bolus feedings six times per day, to bolus feedings four times per day. Id. at 5. The ALJ ultimately found that while the Petitioner does require skilled nursing interventions for his care, such interventions were appropriately reduced by Horizon based on his changed circumstances. Ibid. However, the ALJ also found that Horizon did not adequately consider the situational criteria, and that the Petitioner's skilled nursing interventions are so intertwined with duties that can be provided by a trained caregiver, that it is hard to separate those tasks out. I agree.

As previously stated, once medical necessity for PDN has been established, the following situational criteria are applied when determining the extent of the need for PDN services and the authorized hours of service:

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)

Here, it is undisputed that the petitioner has multiple, complex, significant medical conditions that warrant the authorization of PDN services. Even though a reduction in PDN services may be appropriate given the Petitioner's change in condition at the time of assessment, consideration must also be given to the situational criteria and the unique caregiving needs, as per N.J.A.C. 10:60-5.4(c). The Petitioner's father, V.E., is the Petitioner's sole caregiver. As the sole adult household member all duties of the household, including supplementing the Petitioner's care, when necessary, fall on V.E. alone as there are no other trained caregivers for the Petitioner in or outside the household.

Here, Horizon 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 none of Horizon's witnesses

explained how the situational criteria were factored into the analysis to reduce PDN services. ID at 11.

Thus, based on the record before me and for the reasons enumerated above. I hereby ADOPT the Initial Decision.

THEREFORE, it is on this 26th day of January 2026,

ORDERED:

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

Gregory Woods

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