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Commissioner

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Assistant Commissioner

**DEPARTMENT OF HUMAN SERVICES**
**DIVISION OF MEDICAL ASSISTANCE**
**AND HEALTH SERVICES**

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| T.J., | : | |
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| PETITIONER, | : | **ADMINISTRATIVE ACTION** |
| | : | |
| v. | : | **FINAL AGENCY DECISION** |
| | : | |
| HORIZON NEW JERSEY HEALTH, | : | **OAL DKT. No. HMA 15198-2025** |
| | : | |
| 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. None of the parties filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is July 23, 2026, in accordance with an Order of Extension.

This matter arises from Horizon NJ Health's (Horizon) reduction of Petitioner's PDN services from sixteen hours per day, seven days per week, to twelve hours per day, seven days per week. The issue presented here is whether Horizon correctly reduced Petitioner's PDN services under Medicaid regulations.

Petitioner is fifty years of age and has been diagnosed with anoxic brain damage, other pulmonary embolism without acute cor pulmonale, gastroesophageal reflux disease

(GERD), tracheostomy status, stage 3 pressure ulcer of sacral region, post traumatic seizures and persistent vegetative state. R-3. On July 17, 2025, Horizon notified Petitioner of the reduction of PDN services effective August 1, 2025. R-1. Petitioner had received PDN services for sixteen hours per day, seven days per week. Ibid.

In reviewing the matter for a new authorization, Horizon determined that sixteen hours of PDN services were no longer medically necessary, and that Petitioner's needs could be met with reduced PDN services. R-1, R-2. In similar letters dated July 17, 2025, and August 18, 2025, Horizon affirmed its decision to reduce Petitioner's PDN services and explained the reason for the denials as follows:

> The request for Private duty nursing (PDN) services 16 hours per day, 7 days a week is denied. Private duty nursing is for members with extensive skilled needs (i.e. prolonged seizures, vent management, complicated tube feeds, etc). You breathe through a hole in the neck (tracheostomy). You receive chest physical therapy and suctioning as needed. You receive medications and feeds through a stomach tube (G-tube). You require aspiration (breathing in food or drink) precautions. You require custodial care-full-hands-on-assistance with all basic activities of daily living. Custodial care does not require a licensed nurse and can be provided by a trained caregiver. You are no longer combative. [You] no longer have an open wound. You no longer have a tube for your urine (foley catheter). Based on this information you have been approved for 12 hours per day, seven days per week of private duty nursing services. This decision is based on Horizon NJ Heath Policy 31C.098.02 Private Duty Nursing.

Following the results of Horizon's internal review, Petitioner filed an appeal for an external review by an independent utilization review organization (IURO). The IURO reviewer notes that Petitioner does not meet the criteria for increased PDN services and the twelve hours per day, seven days a week of PDN services is appropriate. R-3. The reviewer also notes the following: 1) Petitioner does not have a gastrostomy tube complicated by frequent aspiration or regurgitation, 2) Petitioner does not have a seizure

disorder that is manifested by prolonged seizures requiring emergency administration of anticonvulsants and 3) Petitioner does not require around the clock nebulizer treatments/chest physiotherapy, mechanical ventilation, presence of active tracheostomy and does not require deep suctioning. Ibid. Lastly, the reviewer notes that the case file does not indicate a need for transitional services which is not recommended as needed. Ibid.

Upon receiving unfavorable results from the internal and external reviews, Petitioner appealed the matter to the OAL where a telephone hearing took place on April 2, 2026. ID at 3. During the hearing, Suzanne O'Brien (Nurse O'Brien), Registered Nurse, testified on behalf of Horizon. Nurse O'Brien testified that on June 17, 2024, she conducted an assessment of Petitioner to determine the amount of skilled nursing services Petitioner would need. ID at 3. During that assessment, Nurse O'Brien assessed several categories as follows: 1) chest physiotherapy, nebulizer and seizure management, 2) gastrostomy tube care and 3) respiratory support including suction and tracheostomy management. ID at 4. The results of the 2024 assessment showed that Petitioner required skilled nursing care to include monitoring vital signs every four hours, daily wound care for three stage-one open body wounds, respiratory management including tracheostomy care with deep suctioning, oxygen monitoring every two hours as needed, chest physiotherapy and nebulizer treatments every six hours. Ibid. Petitioner also was NPO and had all medications and nutritional needs provided through a PEG tube with Glucerna Carb Steady at 65 ml/hr continuously for eighteen hours along with 150 cc water bolus every four hours.[1] Ibid. Nurse O'Brien explained that aspiration precautions were in place with hyperbaric oxygen elevated at 30-45 degrees and that

[1] NPO translates to nothing by mouth.

Petitioner had to be repositioned every two hours to maintain skin integrity. Ibid. Nurse O'Brien also testified that Petitioner had been recently released from the rehabilitation center after suffering cardiac arrest and when she returned home, Petitioner was combative, disoriented and confused which required additional nursing interventions. Ibid. Nurse O'Brien further testified that the June 2024 assessment resulted in Petitioner scoring thirty-eight which was between the range of twelve to sixteen hours of PDN services. Ibid. Petitioner was authorized for twelve hours of PDN services. Ibid. However, at some point between November 7, 2024, and November 11, 2024, Petitioner was hospitalized because there was a crack in her feeding tube. Ibid. As a result, Nurse O'Brien increased PDN services from twelve hours per day to sixteen hours per day, seven days per week because Petitioner had a Foley catheter and open wounds. Ibid. On June 10, 2025, Nurse O'Brien conducted another PDN assessment. ID at 5. The June 2025 assessment showed that Petitioner required monitoring of vital signs two to three times every four hours, blood pressure checks every two hours before providing medication, administration of medication through the g-tube, feedings through the g-tube of Glucerna Carb Steady 1.5 at 50 ml/hr over eighteen hours with water flushes of 90 cc's every two hours, CPT every six hours as needed, tracheostomy care with suctioning as needed, aspiration precautions and g-tube care. Ibid. Based on the June 2025 assessment, Petitioner's score was thirty-four which falls within the range for eight to twelve PDN hours. Ibid.

Dr. Olufunke Olushoga (Dr. Olushoga) also testified for Horizon. Dr. Olushoga testified that she reviewed Petitioner's medical records, plan of care, nursing notes and PDN assessments. ID at 6. After review, Dr. Olushoga determined that twelve hours per day, seven days per week was medically necessary to cover Petitioner's nursing care needs. Ibid. Dr. Olushoga also testified that she reviewed the letter dated June 27, 2025,

sent by Catherine Gerety, APN on behalf of Petitioner claiming that Petitioner needed sixteen hours of skilled nursing care per day. Ibid. However, Dr. Olushoga explained that Petitioner's nursing care notes did not show any complications with tracheostomy suctioning, risk of mucus plugs or any other reason to justify sixteen hours of PDN services. Ibid. Furthermore, Dr. Olushoga testified that no one raised any caregiver issues that Petitioner required more than the twelve PDN hours that had been authorized. Ibid.

In the Initial Decision, the Administrative Law Judge (ALJ) determined that there was no question that since Petitioner is in a vegetative state she would require ongoing, complex, skilled nursing care. ID at 9. The ALJ went on to explain that while the PDN Acuity Tool is used by Horizon to determine PDN hours, it is not included in any State regulation and therefore Horizon is required to demonstrate that Petitioner's medical needs can be met with twelve hours of PDN services. Ibid. The ALJ determined that Horizon has demonstrated that Petitioner's needs can be met with twelve PDN hours and that Nurse O'Brien's testimony along with the nursing notes shows that Petitioner's needs can be met without complication within the twelve hours per day, seven days per week of PDN services plan. Ibid. The ALJ further determined that according to Nurse O'Brien, Petitioner had only been granted sixteen hours per day, seven days per week temporarily resulting from Petitioner being hospitalized in November 2024 and when discharged had a Foley catheter and open wounds which required skilled nursing care. ID at 9, 10. The ALJ concludes that based on the testimony, medical documentation and Petitioner's current medical condition, twelve hours per day, seven days a week are appropriate and in accordance with N.J.A.C. 10:60-5.9(c)(1). Ibid. I agree. According to the evidence, Petitioner had been initially approved in 2024 for twelve PDN hours. ID at 4. Following Petitioner's hospitalization for a cracked feeding tube, associated open wounds and need

for foley catheter, Petitioner's PDN hours were increased to sixteen hours per day to address these additional medical needs. Ibid. However, once the wounds had healed and foley catheter removed, the medical conditions that supported the increase of PDN hours were resolved. As such, there was no longer a demonstrated medical necessity to continue the increased sixteen hours PDN authorization, and the evidence now supports a return to the previously authorized twelve-hour level of PDN services. ID at 5. In addition, Petitioner has failed to present any evidence which establishes that sixteen hours PDN services are necessary to address Petitioner's medical needs.

The regulations state that private duty nursing services are defined as "individual and continuous nursing care, as different from part-time intermittent care, provided by licensed nurses in the home . . ." N.J.A.C. 10:60-1.2. To be considered for PDN services an individual must "exhibit a severity of illness that requires complex skilled nursing interventions on an ongoing basis." 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). "Ongoing" is defined "as the beneficiary needs skilled nursing intervention 24 hours per day/seven days per week." N.J.A.C. 10:60-5.3(b)(1). 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).

Medical necessity for EPSDT/PDN services shall be based upon, but may not be limited to, the following criteria in (b) or (b)(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.
> >
> > N.J.A.C 10:60-5.4(b)

In addition, 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).

Accordingly, for the reasons set forth above, I hereby ADOPT the Initial Decision and FIND that Horizon's reduction of PDN services was appropriate in this matter.

THEREFORE, it is on this 21st day of JULY, 2026

ORDERED:

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

Gregory Woods

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