



PCA services are non-emergency, health related tasks to help individuals with activities of daily living and with household duties essential to the individual's health and comfort, such as bathing, dressing, meal preparation and light housekeeping. 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 dispute in this case focuses on the amount of time allotted for medication administration, grooming, toileting, dressing, meal preparation and laundry.

Petitioner was initially approved for 24 hours of weekly PCA services based on an assessment performed by her previous managed care organization (MCO). As noted in prior Final Agency Decisions, a new MCO that inherited a client that was afforded a certain amount of hours is not required to explain "how or why" the client was given this amount of services. Thus, in this case, United does not have the burden to disprove the prior MCO's assessment. Unquestionably, the client should be provided with the number of hours that are medically necessary. However, if too many hours were awarded in error, such an error should not be continued simply because that was the amount of hours awarded in the past.

On July 21, 2016, United Healthcare, conducted a scheduled assessment. Using the State-approved PCA Beneficiary Assessment Tool, Rashida Mincey, R.N. conducted an in-home assessment of A.G. and considered several categories related to her functional limitations and determined the amount of time A.G. needed for each category. Based on this assessment, Ms. Mincey determined that the needed services could be provided within 13 hours per

week. Thereafter, Ms. Mincey performed a regularly scheduled six-month reassessment on January 12, 2017 which resulted in a determination by United to authorize 18 hours per week.

I note that once PCA services are authorized, a nursing reassessment is performed every six months or more frequently if warranted, to reevaluate the individual's need for continued care. N.J.A.C. 10:60-3.5(a)3. Indeed, in a recent unpublished opinion, the Appellate Division upheld the termination of PCA services, noting that a reassessment is required at least once every six months to evaluate an individual's need for continued PCA services. As a result, the Appellate Court found that "an individual who has received approval for eligible services is not thereby entitled to rely ad infinitum on the initial approval and remains subject to . . . reevaluation at least once every six months". J.R. v. Div. of Med. Assist. & Health Servs. and Div. of Disability Servs., No. A-0648-14 (App. Div. April 18, 2016). (Op. at 9).

In his Initial Decision, the ALJ found that the testimony of Lisa Rozycki, R.N., to be "slightly" more credible than that of United's nurse, Rashida Mincey, R.N., and that A.G.'s PCA services should continue at 24 hours per week. Initial Decision at page 8. It is true that the fact-finder's assessment of the credibility of witnesses is entitled to deference by the reviewing agency head. Clowes v. Terminix, 109 N.J. 575 (1988). However, the Administrative Procedure Act permits the agency head to reject or modify findings of fact as to issues of credibility of lay witness testimony "if the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent, and credible evidence in the record". N.J.S.A. 52:14B-10(c).

To that end, I agree that the record supports the provision of 35 minutes per week (5 minutes per day) for grooming to provide Petitioner assistance with her oral care products due to the limited mobility in her hands. I also find it reasonable that she receive 105 minutes (15 minutes per day) for toileting assistance due to "dribbling of urine" and assistance with the emptying and cleaning of the bedside commode. Petitioner has also provided a reasonable explanation as to the need for 120 minutes for week for laundry. Given the number of residents in Petitioner's senior housing building and the limited number of washers and dryers, I agree that it is more efficient for the aide to use an outside laundromat once per week. Additionally, Petitioner's aide candidly admitted that she needs only 45 minutes to clean Petitioner's apartment, which is less than the 120 minutes permitted by the tool. Thus, I find it reasonable to use part of the housekeeping allotment to award additional time for laundry.

However, I find the amount of time Ms. Rozycki allotted for dressing, meal preparation, and medication administration to be excessive and not supported by the record.

With respect to medication administration, Ms. Rozycki contends that Petitioner requires 140 minutes per week (20 minutes per day) to provide assistance with taking her medications. However, assistance with medications is already encompassed in the cognitive section of the PCA tool. Ms. Mincey, United's nurse, awarded 60 minutes per week in her January 12, 2017 assessment. However, given Petitioner's cognitive impairments, I find that she should receive 120 minutes due to her need for repeated reminders to "initiate,

perform or self-direct activities". See R-1 page 2. This amount of time is also sufficient to provide assistance with her medications.

I am also not persuaded that Petitioner should receive 40 minutes per day for dressing assistance (20 minutes twice per day) for a total of 280 minutes per week. The assessment tool allots 5-10 minutes per episode if the individual requires limited assistance from the caregiver or 15 minutes per episode if she requires extensive assistance. Here, Ms. Mincey allotted 10 minutes per day for dressing after Petitioner "reported she needs help putting on bra, pull-over shirt/blouse, pants, socks and shoes due to pain and limited range of motion", but that she "undresses herself with difficulty". R-1, page 4. Similarly, Ms. Rozycki acknowledges that Petitioner independently undresses in the evening even though she experiences discomfort while doing so. Moreover, Ms. Rozycki noted that Petitioner and the aide told her that all of her nightwear is laid out for her and does not contain difficult closures. Nevertheless, Ms. Rozycki stated that Petitioner requires 20 minutes of assistance with dressing twice per day for a total of 40 minutes per day. See P-2, page 3. I find no basis to allot time for dressing assistance in the evening as the aide is not with Petitioner when she gets undressed and ready for bed and Petitioner acknowledged she is able to undress herself even though she does experience discomfort while changing. As a result, I find that 20 minutes per day is an adequate amount of time for the aide to provide assistance with dressing in the morning as well as laying out and unfastening Petitioner's clothes for her to put on at night before bed.

I also disagree with the 420 minutes per week allotted for meal preparation. The record indicates that Petitioner receives home-delivered

lunches from Meals on Wheels during the week. Ms. Rozycki found that the aide needs 45 minutes to divide the portion in half and set up a plate for dinner for Petitioner to retrieve from the refrigerator when the aide is not present. Ms. Rozycki also noted that the aide usually prepares a sandwich for Petitioner at lunch time. I find 420 minutes per week for meal preparation to be excessive. Rather, I agree that Petitioner should receive the maximum amount of time on the assessment tool for breakfast (15 minutes x 7 = 105 minutes) and the maximum amount for lunch during the week (15 minutes x 5 = 75 minutes). This is a sufficient amount of to divide the delivered meal in half for dinner and prepare a sandwich. However, on the weekends, I find that Petitioner should receive time for meal preparation for lunch as well as dinner because she is not receiving the home-delivered meal (15 x 2 = 30 minutes for lunch and 25 x 2 = 50 minutes for dinner) for a total of 260 minutes for meal preparation each week.

Based on the foregoing, Petitioner shall receive **120** minutes per week due to her cognitive impairment, **140** minutes for transferring, **210** minutes for bathing, **105** minutes for toileting, **35** minutes for grooming, **140** minutes for dressing, **45** minutes for housekeeping, **60** minutes for shopping, **105** minutes for breakfast preparation, **75** minutes for lunch/dinner preparation during the week, **80** minutes for lunch and dinner preparation on the weekends and **120** minutes for laundry, for a total of 1235 minutes or 21 hours per week.


If the necessary personal care and household tasks can be accomplished within 21 hours per week, any additional hours would only be used for supervision or companionship which is not an authorized use of the service. See N.J.A.C. 10:60-3.8(c). This would be contrary to the purpose of the PCA

program, which is intended to provide medically necessary assistance with specific health related tasks.

THEREFORE, it is on this *17th* day of May 2017,

ORDERED:

That Petitioner shall receive 21 hours of PCA services per week.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services