

State of New Jersey Department of Human Services Division of Medical Assistance and Health Services P.O. BOX 712

TRENTON NJ 08625-0712

PHILIP D. MURPHY Governor Carole Johnson Acting Commissioner

Sheila Y. Oliver Lt. Governor Meghan Davey Director

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

R.L.,

PETITIONER,

ADMINISTRATIVE ACTION

V

FINAL AGENCY DECISION

UNITED HEALTHCARE,

OAL DKT. NO. HMA 08079

RESPONDENT:-

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence, and the entire contents of the OAL case file. Both Petitioner and Respondent filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is February 16, 2018 in accordance with an Order of Extension. The Initial Decision in this case was received on November 15, 2017.

The matter arises regarding United Healthcare's (United) May 2, 2017 denial of an increase in Personal Care Assistant (PCA) service hours. Petitioner requested a fair

hearing and the denial of Petitioner's request for 48 hours a week of PCA services was transmitted to the Office of Administrative Law (OAL) on June 8, 2017. On or about, August 28, 2017, United conducted another assessment based on a change in Petitioner's condition. As a result of that assessment, United determined that Petitioner was eligible for 53 hours of PCA services.

The matter transmitted and appropriately before the court is the May 2, 2017 denial of Petitioner's request for 48 hours of weekly PCA services. However, during the pendency of his appeal, United performed a reassessment and Petitioner was authorized 53 hours of weekly PCA services. Questions that have become moot prior to judicial scrutiny are an improper subject for judicial review. <u>Anderson v. Sills, 143 N.J. Super.</u> 432 (Ch. Div. 1976). In light of the fact that Petitioner is receiving more than the maximum 48 hours that he ALJ could award in this matter, I FIND that the issue on appeal is moot.

Moreover, Federal law requires that, after July 1, 2017, a Medicaid Fair Hearing can only be requested after the results of an Internal (Stage 1 of Level 1) Appeal with the MCO within 60 days of the date of the denial. See 42 CFR 438.404(b)(3) and 42 CFR 438.402(b)-(c). The record contains no evidence that Petitioner requested an internal appeal with United or a fair hearing with this office regarding the August 28, 2017 determination. There is no pending fair hearing concerning that assessment and it is not the subject of the matter transmitted. N.J.A.C. 1:1-3.2. Consequently, any findings or conclusions regarding Petitioner's entitlement to PCA hours other than the 48 requested as part of the June 8, 2017 transmittal are not currently before the court.

day of MARCH 2018, as previously signed on THEREFORE, it is on this the 9th day of February 2018,

ORDERED:

That the Initial Decision is hereby REVERSED.

Meghan Davey, Director
Division of Medical Assistance
and Health Services