



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Lt. Governor

CAROLE JOHNSON
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

C.L.,

PETITIONER

v.

HORIZON NJ HEALTH,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 00557-19

As Assistant Commissioner for 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, the contents of the OAL case file and Respondent's exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is January 2, 2020 pursuant to an Order of Extension. The Initial Decision was received on October 3, 2019.

Based upon my review of the record and for the reasons which follow, I hereby

ADOPT the Initial Decision reversing Horizon NJ Health's (Horizon) determination that Petitioner is no longer eligible for pediatric medical daycare (PMDC) services. I FIND that based on the unique facts and circumstances presented here, PMDC services are warranted at least until the next reassessment.

In order to qualify for the program, a child must be technologically dependent and/or medically complex. A "technology-dependent child" is defined as "a child who requires a specific class III medical device to compensate for the loss of a bodily function to avert death or further disability and ongoing skilled nursing intervention in the use of the device." N.J.A.C. 8:87-1.2. Since Petitioner is not technology-dependent, in order to qualify for pediatric medical day care, he must be medically complex. A "medically complex child" is defined as "a child who exhibits a severity of illness that requires ongoing skilled nursing intervention." N.J.A.C. 8:87-1.2. N.J.A.C. 10:166-3.1(4) states that "skilled nursing needs include...(6) The presence of a seizure disorder manifested by frequent and prolonged seizures requiring emergency medication administration."

As noted by the ALJ, the dispute in this matter is whether Petitioner's seizure activity has diminished such that he no longer requires PMDC. Horizon accurately points out, and the ALJ agreed, that Petitioner had not suffered a seizure while at PMDC for at least the three months prior to his reassessment. I am cognizant of the fact that PMDC services are intended for medically complex children and the possibility that Petitioner may experience a seizure does not in and of itself satisfy the threshold eligibility requirement for PMDC. However, in this particular case I, like the ALJ, am concerned that Petitioner has been receiving varying doses of anti-seizure medication with no success and is still under the active treatment of his neurologist. The fact that he has experienced eight to ten prolonged seizures during the last four months, combined with the fact that Petitioner is at risk for Sudden Unexpected Death in Epilepsy Patients (SUDEP) warrants the continuation of PMDC pending the next assessment.

THEREFORE, it is on this *8th* day of DECEMBER 2019,

ORDERED:

That Petitioner shall continue to receive PMDC services pending a reassessment.


Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services