

Personal Care Assistance (PCA) services from 56 hours per week to 42 hours per week. Based upon my review of the record, I hereby ADOPT in part and REVERSE in part the Initial Decision reversing Respondent's reduction of PCA services from 56 to 42 hours per week. For the reasons which follow, I find that Petitioner should receive 44 hours of services per week.

Personal Care Assistant 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. On June 3, 2019, Nina Moore, R.N., conducted a routine PCA assessment of Petitioner and determined that her needs could be met with 44 weekly hours of PCA services.

At the hearing, Moore testified that she had conducted approximately 200 in-person assessments using the State approved PCA assessment tool. She addressed her written justifications for each score on the PCA tool with regard to Petitioner. The ALJ found Moore's testimony to be credible.

Petitioner is a 96 year old woman who lives alone in a senior apartment complex. She did not appear or testify at the hearing. Her granddaughter appeared on her behalf but did not testify. The only evidence presented by Petitioner was a prescription to "reevaluate for increased home health aide services."

Despite finding Moore credible and in the absence of evidence or testimony from Petitioner contradicting Moore's findings, the ALJ determined that United's assessment did not adequately address Petitioner's needs. Consequently, the ALJ increased the amount of services allotted for toileting, housekeeping, dressing, bathing, and ambulation, and she reduced the amount of allotted services for feeding and meal preparation. I FIND that the ALJ's changes to the PCA assessments in each of these categories, with one exception,

minute increase. I FIND that Moore's assessment of 315 minutes per week is supported by the record and should remain in place.

With regard to bathing, Nurse Moore assessed Petitioner for 210 weekly minutes, the maximum allowed by the tool. The ALJ increased the allotment to 525 minutes per week. The ALJ explained the increase by stating that Petitioner is incontinent and requires additional lower body cleaning. While Petitioner may be incontinent and may at times require additional cleaning, there is no documentary evidence or testimony that Petitioner requires this additional bathing several times every day for a total increase of 315 minutes per week. I FIND that Moore's assessment of 210 minutes per week is supported by the record and should remain in place.

Finally, the ALJ increased the amount of PCA services in the category of ambulation to give Petitioner an additional 60 minutes per week to be taken to her doctors' appointments. There is no documentary evidence or testimony in the record that Petitioner has weekly doctor's appointments, let alone the amount of time required for each appointment. Accordingly, I FIND that the PCA hours for ambulation should remain as assessed by Nurse Moore.

The ALJ reduced the amount of PCA services in connection with the categories of feeding/eating and meal preparation from 210 to 190 minutes per week and 385 to 350 minutes per week, respectively. As an explanation for both, she notes that it was unknown to Respondent that Petitioner was having one meal per day delivered to her home. This explanation for the reduction of PCA services conflates the two categories. The feeding category is strictly for assisting the Petitioner in the act of feeding or eating her meal. It does not include the time required to prepare a meal. Meal preparation is addressed in a separate category.

As no evidence or testimony is cited, it is unclear how the ALJ came to know that Petitioner was receiving one meal per day from a delivery service. It is also unknown which meal was or is being delivered to the Petitioner or how long Petitioner has been

receiving this service. The type of meal delivered and the frequency of the delivery are determinative of the amount of PCA services allotted for meal preparation, and whether or not Petitioner receives this services should be noted at her next assessment.² As it stands, there is simply no explanation for the reduction in PCA services for feeding or meal preparation. Consequently, I FIND that these categories should remain at Nurse Moore's original assessments of 210 and 385 minutes per week.

Unquestionably, Petitioner should be provided with the number of hours that are necessary to meet her particular needs. Contrary to the ALJ's reasoning, however, United is not bound by previous assessments. 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, 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 fact, despite assuming that Petitioner's condition had not improved but had most likely worsened with age, the ALJ did not feel it necessary to restore the full 56 hours previously received by Petitioner.

Based on her assessment of Petitioner's particular needs and circumstances, Nurse Moore approved Petitioner for 44 hours of weekly PCA services. To support her finding, Moore provided written justifications for each category of the PCA tool. In the absence of any evidence contradicting Moore's credible testimony, the ALJ nevertheless concluded that United Healthcare excessively reduced Petitioner's hours. Unfortunately, the ALJ fails

² The frequency and type of meal delivered are necessary to determine whether and by how much the PCA services should be reduced. If the meal being delivered is breakfast or lunch, the PCA services should be reduced by 105 minutes. If the meal provided is dinner, the PCA services should be reduced by 175 minutes. Either way, there is no explanation in the record for the 35 minute reduction in meal preparation services.

to specify how she arrived at an additional four hours. I find that the credible evidence in the record supports Petitioner's need for 44 hours of weekly PCA services.

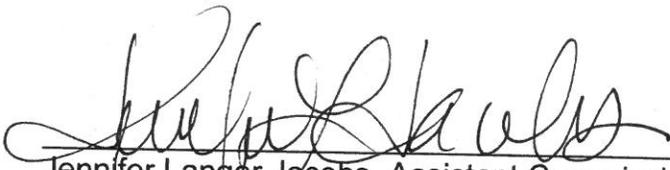
THEREFORE, it is on this 31st day of OCTOBER 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED with regard to the ALJ's determination of PCA services necessary to meet Petitioner's needs in the category of toileting; and

That the Initial Decision is hereby REVERSED with regard to the ALJ's determination that the amount of PCA services should be increased in the categories of ambulation, housekeeping, dressing, and bathing; and

That the Initial Decision is hereby REVERSED with regard to the ALJ's determination that the amount of PCA services should be reduced in the categories of feeding/eating and meal preparation.


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