

otherwise provided through generic resources, the Supports Program, or through the State Plan, which address an identified need (including improving and maintaining the participant's opportunities for full membership in the community) and meet the following requirements: the item or service would decrease the need for other Medicaid services; and/or promote inclusion in the community; and/or increase the participant's safety in the home environment; and, the participant does not have the funds to purchase the item or service or the item or service is not available through another source." Section 17.9.1 Supports Program Manual.

Petitioner is seeking to have the cost of an "Individual Pilates Reformer" (IPR) class funded by the Supports Program. ID at 3. DDD requested additional information about the request and ultimately denied the funding on November 1, 2019 as it was personal training; a service that is explicitly excluded from coverage. J-2. See Section 17.9.5.1.2. Supports Program Manual.

The Initial Decision upheld the denial of the class through a detailed analysis that concluded the IPR class constituted personal training and was excluded from coverage. The IPR class is described as a thirty minute class to provide a unique and personalized work out. J-6 at 5.

In the discussion about Petitioner's argument that the IPR class should be covered as physical therapy, the Initial Decision turned to the definition of physical therapy under the New Jersey licensure rules for a physical therapist as the term physical therapy was not defined in the Supports Program Manual. ID at 12-13. However, the Supports Program Manual does incorporate a definition of physically therapy by referencing the scope and nature of physical therapy services "described

in the State Plan” and will only cover these services when the State Plan benefits is exhausted. Supports Program Manual § 17.14.1. In turn, the State Plan physical therapy benefit is described as “a service prescribed by a physician or an advanced practice nurse and provided to a Medicaid or NJ FamilyCare fee-for-service beneficiary by or under the direction of a qualified physical therapist. Physical therapy does not include therapy which is purely palliative, such as the application of heat in any form; massage; routine calisthenics; group exercises; assistance in any activity; use of a simple mechanical device; or other services not requiring the special skill of a licensed physical therapist.” N.J.A.C 10:66-2.13(c). Nothing in the record shows that the IPR class met any of the requirements to be considered physical therapy.

Rather, I concur that the IPR class was properly classified as personal training. While that term is not specifically defined in the Support Programs Manual, DDD’s assessment of the IPR class appropriately found that it met the ordinary and acceptable meaning of personal training. As the ALJ found:

A common definition of “personal trainer” is “a person who is paid by somebody to help them exercise, especially by deciding that types of exercise are best for them.” Oxford Dictionary, Personal Trainer, available at <https://www.oxfordlearnersdictionaries.com/definition/english/personal-trainer> (last visited January 31, 2021). The proposed IPR program is described as offering “a unique and personalized full-body workout” with the assistance of instructors to “work with you to accomplish individualized goals through customized programs.” (J-6 at 5.) The petitioner, in her briefing, notes that she is seeking the proposed program for her daughter with the objective of “improving her posture, muscle tone and strength.” (Pet. Br. at 3.) From the information presented on this record, the proposed program appears to fit well within the ordinary and accepted meaning of “personal training.” (See also J-9 (video of the IPR program).)

ID at 15.

Nothing in the record counters this analysis and, as personal training is

specifically excluded from coverage, the IPR class was correctly denied. I note that the funds to cover a direct support professional to assist Petitioner in a group class or during her use of the gym equipment could be requested under the Supports Program's Good and Services which would permit Petitioner to participate in an inclusive and integrated Pilates class. ID at 6.

THEREFORE, it is on this ^{23rd} day of JULY 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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