



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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Governor

SHEILA Y. OLIVER
Lt. Governor

SARAH ADELMAN
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

J.D.,

PETITIONER,

v.

AMERIGROUP,

RESPONDENTS.

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ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 04569-2020

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is March 16, 2023, in accordance with an Order of Extension.

This matter arises from Amerigroup's assessment of Personal Care Assistance (PCA) hours for Petitioner. Petitioner had requested that forty hours of PCA services per week be continued and elected to receive those services through the Personal Preference Program (PPP). Based upon Amerigroup's assessment, it was determined that thirty-five hours of PCA services per week were medically necessary, and Amerigroup denied Petitioner's request for forty PCA hours per week. Petitioner, through her parents and legal guardians, who provide care to Petitioner, appealed the denial, and the matter was transmitted to OAL.

PCA services are non-emergency, health related tasks to help individuals with activities of daily living (ADLs) 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 regulations provide that PCA services are only warranted when the beneficiaries is "in need of moderate, or greater, hands-on assistance in at least one activity of daily living (ADL), or, minimal assistance or greater in three different ADLs, one of which must require hands-on assistance." N.J.A.C. 10:60-3.1(c). Additionally, instrumental activities of daily living (IADL) "such as meal preparation, laundry, housekeeping/cleaning, shopping, or other non-hands-on personal care tasks shall not be permitted as a stand-alone PCA service." N.J.A.C. 10:60-3.1(c)1. The assessments use the State-approved PCA Nursing Assessment Tool (PCA Tool) to calculate the hours.

At the hearing, counsel for Amerigroup advised that Amerigroup's "position had changed since the filing of the appeal and he was authorized to represent that forty hours would continue on an interrupted basis." ID at 2. While the Initial Decision found that Amerigroup's decision to reduce Petitioner's PCA services from forty hours per week to 32 hours per week should be reversed, I FIND that the present matter is now moot. An action is moot when a decision that is being sought in a particular matter will have no practical effect on the existing controversy. In re Conroy, 109 N.J. Super. 453, 458 (App. Div. 1983)). Issues that have become moot are improper subjects for judicial review. Anderson v. Sills, 143 N.J. Super. 432, 437-438 (Ch. Div. 1976) ("[F]or reasons of judicial economy and restraint, courts will not decide cases in which the issue is hypothetical, a judgment cannot grant effective relief, or the parties do not have concrete adversity of interest."). As Amerigroup has already determined that Petitioner was entitled to continue receiving forty hours of PCA services

through the PPP program per week, there is no additional relief that can be afforded to Petitioner in this matter.

However, it has now been approximately three years since the reassessment at issue was completed, which makes it difficult to determine the amount of services that Petitioner currently requires. Thus, Petitioner's current status must be reassessed.

Accordingly, for the reasons set forth above, I hereby REVERSE the Initial Decision and FIND that the present matter is moot and Petitioner's appeal should be dismissed.

THEREFORE, it is on this 10th day of MARCH 2023,

ORDERED:

That the Initial Decision is hereby REVERSED, as the matter is now MOOT; and

That Amerigroup shall assess Petitioner's current condition within four weeks of this decision to determine Petitioner's present needs for PCA services.



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