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

J.M.

PETITIONER,

v.

HORIZON NJ HEALTH,

RESPONDENT.

ADMINISTRATIVE ACTION

ORDER OF REMAND

OAL DKT. NO. HMA 05825-2024

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Exceptions were not filed by either party in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 12, 2024.

This matter arises from Horizon NJ Health's (Horizon) assessment of Personal Care Assistance (PCA) hours for Petitioner. Petitioner appealed the termination, and the matter was transmitted to the OAL for a hearing.

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, and ambulation. 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 are "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.

On February 22, 2024, Shakia Richardson, a Registered Nurse, performed a reassessment of Petitioner's PCA services to determine the hours of care needed. (R-1). Petitioner suffers from autism and ADHD causing moderate impairment. ID at 2. At the time of this assessment, the Petitioner was receiving fourteen hours of PCA hours a week. Id. at 3. This was the result of a continuation of benefits during the Covid-19 pandemic. Ibid. On February 26, 2024, Horizon notified Petitioner that their hours of PCA services per week were being terminated. (R-5).

At the hearing, Shakia Richardson, RN, testified that she did not observe that the Petitioner had physical deficiencies or disabilities that required manual assistance. ID at 4. The impairments she identified included poor decision-making, defiant behavior, the necessity for cueing to initiate tasks, and the need for reminders. Ibid. Cognitive and memory tests were successfully completed. Ibid.

Physically, the Petitioner presented as without difficulty or deficiency. Ibid. They were able to ambulate independently without the need for assistance or device. Ibid. Additionally, they were able to transfer from a chair or bed without issue. Ibid. They were also able to change position from time to time while sitting or prone. In regard to feeding

and eating, the Petitioner had the ability to bring food to their mouth and consume it without issue. Ibid. For both bathing and toileting, the Petitioner was fundamentally independent, including both washing and, after vacating waste, cleaning themselves. Ibid. Nurse Richardson did note that while washing and toileting required supervision and cueing, neither required physical assistance. Ibid. The Petitioner was also physically capable of dressing, though on school days, they often required verbal instruction to complete the task. Ibid. However, the Petitioner's mother, J.C., testified that the Petitioner required hand-over-hand assistance with certain tasks, like brushing teeth. Ibid. Nurse Richardson testified that this did not amount to physical assistance, and was instead cuing. Ibid.

In regard to Instrumental Activities of Daily Living (IADLs), Nurse Richardson testified that, in the State of New Jersey, for children under the age of majority, IADLs are the parents' sole responsibility and no time or scoring is to be afforded utilizing the "State-approved" PCA Tool. Id. at 5. Nurse Richardson also explained that the PCA assessment does not take into consideration whether the parent is required to care for other children. Id. at 5. It does not take into consideration the time focused on the one child with disabilities, or the time drawn from other children in the home. Ibid. The PCA assessment also does not take into account parental responsibilities to all children in the household, including IADLs, where significant parental time and attention is then divided and allocated in large portion to the one child with special needs. Taking everything into consideration and utilizing the PCA Tool, Nurse Richardson concluded that, based on her February 22, 2024, assessment, J.M. did not qualify for PCA services. Ibid.

The Administrative Law Judge (ALJ) found that Horizon used the State-mandated PCA Assessment tool and carefully and correctly assessed that the Petitioner is not entitled to receive PCA services. The ALJ found that the Petitioner's needs do not rise to

the level of physical activity required by N.J.A.C. 10:60-1.2 ("Hands-on personal care") and N.J.A.C. 10:60-3.1(c).

However, the Initial Decision does not meaningfully address what has changed in the member's status since PCA was previously authorized that justified the termination of services. This information is a critical element in determining the validity of a termination of ongoing services. In addition, the record did not clarify the extent to which the Petitioner required direct assistance with activities such as brushing teeth, as opposed to simply cueing or gestures, which is potentially important information in assessing the member's ongoing need for PCA.

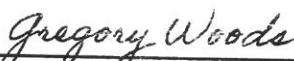
Accordingly, based on the record before me and for the reasons set forth above, I hereby REMAND this matter to the OAL to give the Petitioner and Respondent the opportunity to provide credible documentary evidence and testimony in regard to the hand-on-hand assistance with brushing and similar activities, and more critically what, if anything, has changed in the Petitioner's status to cause the termination of services. Relevant documentation that may help in this regard is information regarding any 504s or IEP's through the school district, testing related to current cognitive, social-emotional and adaptive behavioral functioning, and physical, occupational or speech therapy records.

Based upon my review of the record and for the reasons set forth herein, I hereby REMAND the Initial Decision in this matter.

THEREFORE, it is on this 11th day of June, 2025,

ORDERED:

That the Initial Decision is hereby REMANDED, as set forth herein.



Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services