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

J.M.,

PETITIONER,

ADMINISTRATIVE ACTION

v.

FINAL AGENCY DECISION

DIVISION OF MEDICAL ASSISTANCE :

OAL DKT. NO. HMA 08582-25

AND HEALTH SERVICES AND :

HORIZON,

RESPONDENTS. :

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence, and the Initial Decision. Horizon filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 26, 2025, in accordance with an Order of Extension.

This matter concerns the reduction of Petitioner's Private Duty Nursing (PDN) hours. Petitioner had been receiving 24 hours per day of PDN services. Horizon conducted an assessment using the PDN acuity tool ("Tool") on March 12, 2024, and determined that Petitioner was authorized for 19 hours per day, 7 days a week. (R-5.) The issue presented here is whether the reduction of PDN services was proper under Medicaid regulations.

Petitioner is a nine-year-old who lives with their parents and two younger siblings. (R-1.) Petitioner's medical history includes spinal muscular atrophy, vent dependence, and GT status. Ibid. Petitioner communicates with grunts or mumbles words and comm device, tablet gaze, but can be understood by those who know him. Ibid. Petitioner is ADLs and IADLs dependent. Ibid. Petitioner attends school 4 days per week with PDN support. Ibid. Petitioner requires BiPAP overnight and PRN oxygen for shortness of breath. Ibid. Petitioner requires cough-assist therapy every 2 hours and suctioning more than every 5 minutes while awake, due to significant secretion production. Ibid. Petitioner is hypotonic and unable to sit independently. Ibid. Petitioner's parents underwent multiple training sessions at the Children's Hospital of Philadelphia to observe and participate in multiple tasks necessary for Petitioner's care. ID at 3. Both parents own businesses and work outside the home during the week. Ibid.

On March 12, 2024, Sharon Brandes (Brandes), RN, BSN, completed the PDN assessment at Petitioner's home with Petitioner's mother, M.M., and the PDN nurse present. (R-1.) To complete the Tool, Brandes reviewed nursing notes, a progress report, Petitioner's plan of care, a letter of medical necessity, and interviewed M.M. and the nurse. Ibid. She recommended 19 PDN hours. Ibid. This was the first PDN medical-necessity evaluation since 2019, due to COVID-19 restrictions. ID at 4.

On May 17, 2024, Horizon's internal appeal peer review upheld the determination. ID at 2. On June 6, 2024, an independent external appeal by Maximus Federal Services (Maximus) also upheld the denial of 24-hour services. Ibid. On June 12, 2024, M.M. appealed Horizon's reduction determination. ID at 2. After two adjournments per Petitioner's request to retain an attorney, the telephonic hearing was held on August 21, 2025. Ibid. The record was closed on September 8, 2025, after both parties submitted post-hearing submissions. Ibid. Petitioner currently receives 24 hours of PDN services under the fair hearing continuation. ID at 3.

During the hearing, Brandes testified on behalf of Horizon that she had worked with Petitioner for several years, visited in person multiple times, and completed the March 12, 2024, assessment. ID at 5. Brandes summarized Petitioner's medical conditions and needs and explained her recommendation of 19 PDN hours. Brandes testified that Petitioner did not require the skilled nursing services following categories assessed by the Tool: routine blood draws, case management, infusion access or specialty medication management, intravenous-infusion care, seizure management, skin or wound management, or tracheostomy management. ID at 6. Brandes described a clinical assessment, scored by frequency, including monitoring, taking vital signs, collecting specimens, and adjusting equipment. Ibid.

M.M. testified on behalf of Petitioner that the Tool does not adequately reflect Petitioner's suctioning frequency, that the lower score for a BiPAP fails to account for its connection to a Trilogy ventilator, that physicians consider Petitioner ventilator dependent, but the Tool does not; and the Tool failed to include a selection regarding skin or wound management. ID at 9. M.M. stated that medication administration is more frequent than identified on the Tool. ID at 11.

The Initial Decision reversed Horizon's authorization of 19 hours and concluded that 24 hours a day was an appropriate level of PDN services. The Administrative Law Judge (ALJ) found that Horizon's determination failed to consider all circumstances regarding Petitioner's skilled nursing needs, especially concerning respiratory support and suctioning. ID at 1. The ALJ also found that a preponderance of the evidence did not support that the March 12, 2024, PDN Tool or overall assessment adequately considered Petitioner's medical needs for skilled nursing care. ID at 13. The ALJ concluded that Horizon did not consider the family's work and childcare considerations when they reduced Petitioner's PDN services. ID at 14. The ALJ ordered that Petitioner's PDN services should remain 24 hours.

Here, Horizon reduced Petitioner's PDN hours following the March 12, 2024, assessment, asserting the reduction was proper due to few improvements and the presence of well-trained caregivers. The ALJ reversed Horizon's determination finding that Horizon did not consider all of Petitioner's skilled nursing needs and family circumstances.

The purpose of private duty nursing services is to provide "individual and continuous nursing care", as opposed to "part-time intermittent care". N.J.A.C. 10:60-5.1(b).

The medical necessity for PDN services shall be based upon, but may not be limited to, the following criteria:

1. A requirement for all the following medical interventions:
 - i. Dependence on mechanical ventilation;
 - ii. The presence of an active tracheostomy; and

- iii. The need for deep suctioning; or
2. A requirement for any of the following medical interventions:
 - i. The need for around-the-clock nebulizer treatments, with chest physiotherapy;
 - ii. Gastrostomy feeding when complicated by frequent regurgitation and/or aspiration; or
 - iii. A seizure disorder manifested by frequent prolonged seizures, requiring emergency administration of anti-convulsants.

[N.J.A.C. 10:60-5.4(b).]

Based on my review of the record, I ADOPT the Initial Decision for the following reasons.

The ALJ found that the Tool's assessment of the Petitioner's suctioning needs was insufficient. I agree with the ALJ's findings that the Tool has significant limitations in accurately assessing Petitioner's suctioning needs. Its categories fail to account for frequency, depth, and nature of Petitioner's suctioning, particularly because it narrowly defines tracheal suctioning and inconsistently applies scoring criteria. Horizon's selection of "oral and nasal" suctioning does not reflect Petitioner's frequent and deep suctioning requirements, which extend well beyond the oral cavity. Due to the severity of Petitioner's condition, they face a high risk of airway obstruction and death, requiring constant monitoring by skilled caregivers.

The ALJ also found that the Tool does not accurately reflect Petitioner's actual support requirements. I agree with the ALJ's finding that the Tool underestimates Petitioner's respiratory needs by assigning a low score for BiPAP use, despite the BiPAP being connected to a Trilogy ventilator and Petitioner being considered ventilator-dependent by their physicians. It explains that BiPAP functions as ventilatory support by

providing pressurized air and adjusting oxygen and breathing support, yet the PDN Tool fails to distinguish between simple CPAP/BiPAP use and more complex ventilator-assisted care.

The ALJ found that the Tool's failure to recognize any skin care needs was inappropriate, especially given Petitioner's documented and recurring skin issues. I agree with the ALJ's findings because the Tool does not include an option for assessing skin or wound care needs, despite evidence that Petitioner requires ongoing skin management. Petitioner's medications and nursing notes document requiring rashes, redness, and pain that require regular treatment, including topical medications and patches.

The ALJ also found that the PDN assessment did not appropriately consider caregiver circumstances. I agree with ALJ's findings. Although both parents are trained caregivers, they own businesses outside the home, and they have two young children, ages 4 and 1.5, as of the March 12, 2024, assessment.

Horizon filed exceptions on October 2, 2025, objecting to the Initial Decision's findings and arguing that while the Initial Decision provides a comprehensive overview of Petitioner's condition, the Initial Decision did not sufficiently explain why the reduction from 24 to 19 hours was inappropriate. Horizon asserted that the ALJ relied too heavily on the Tool rather than the full PDN assessment, noted that medical necessity and authorization hours of services are ultimately determined by Horizon's Medical Director, Kelly Beathea (Dr. Beathea), supported by the New Jersey Regulations and Horizon Policy and not by the Tool alone. Horizon also asserts that the Petitioner has made a few improvements since the 2018 assessment and disputes the ALJ's conclusion regarding the family's circumstances.

The regulations require consideration of Petitioner's skilled needs and family support circumstances when services are medically necessary. The record shows the PDN assessment did not acknowledge all of Petitioner's skilled nursing needs before reducing PDN hours on March 12, 2024. The Tool scored nineteen hours, and Horizon authorized only nineteen hours without any adjustment, despite Petitioner's parents significant employment and parenting obligations to young siblings.

Based on my review of the record and the facts presented, I FIND Horizon's reduction of Petitioner PDN hours from 24 to 19 was not proper under Medicaid regulations. Horizon failed to consider all of Petitioner's skilled nursing needs and family circumstances when they reduced Petitioner's PDN services. Accordingly, Petitioner should remain eligible for 24 hours PDN services per day.

THEREFORE, it is on this 22nd day of DECEMBER 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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