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Assistant Commissioner

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

L.E.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES AND :

WELLPOINT OF NEW JERSEY, :

RESPONDENTS. :

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 16334-24

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 in this matter. Neither Party filed exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is July 3, 2025, in accordance with an Extension Order.

This matter arises from Wellpoint of New Jersey's (Wellpoint) decision to reduce Petitioner's Personal Care Assistant (PCA) services from 18.5 hours per week to 5 hours per week. The issue presented here is whether Wellpoint correctly reduced Petitioner's PCA service hours under Medicaid regulations.

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. Once PCA services are authorized, a nursing reassessment is performed every twelve 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. The assessments use the State-approved PCA Nursing Assessment Tool to calculate the hours.

In a recent unpublished opinion, the Appellate Division upheld the termination of PCA services, noting that a reassessment is required at least once every six months to evaluate an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).

Here, Petitioner is a nine-year-old child diagnosed with Autism Spectrum Disorder, Attention Deficit Hyperactivity Disorder (ADHD), Nocturnal Enuresis, Speech Delay, and Combative Disorder. ID at 2. Petitioner resides with their mother, S.H., and four siblings. Ibid. Petitioner initially requested PCA services in 2022. Ibid. Due to COVID-19 protocols, which prohibited in-home interviews, Wellpoint assigned Jennifer Kilroy

(Kilroy), a Registered Nurse (RN), to conduct a telephonic interview with Petitioner. Ibid. On December 1, 2022, Kilroy completed a remote assessment that relied entirely on responses from S.H. Ibid. That assessment concluded that Petitioner was eligible for 18.5 PCA hours per week. Ibid. The COVID-19 protocols have since been lifted and on June 26, 2024 Kilroy was able to perform an in-person interview at Petitioner's residence. Ibid. The June 26, 2024, PCA evaluation found Petitioner eligible for 4.09 but was rounded up to 5 hours per week. Ibid. Kilroy followed N.J.A.C. 10:60-3.5(a)(3) and utilized the "State approved PCA assessment tool" when she completed the June 2024 assessment. Ibid.

On August 27, 2024, Petitioner filed an internal appeal, which was denied by Wellpoint. ID at 1-2. Petitioner appealed a reduction in hours, and the matter was transmitted to the Office of Administrative Law (OAL). Ibid. The telephonic hearing was conducted on February 28, 2025, and the record remained open for the receipt of additional documents. ID at 2. The record closed on March 12, 2025. Ibid.

At the hearing, Kilroy testified on behalf of Wellpoint regarding the assessments she conducted in December 2022 and June 2024. ID at 4. Kilroy testified that she performed Petitioner's December 2022 assessment telephonically due to COVID-19 restrictions. Ibid. Kilroy testified that in conducting the December 2022 assessment, she relied on the information provided by S.H. Ibid. However, when Kilroy conducted the June 2024 assessment, she observed Petitioner, spoke to Petitioner, and S.H. Ibid. Kilroy testified that changes in the 2022 assessment were a product of her ability to communicate directly with Petitioner as well as personally observe Petitioner at home in June 2024. Ibid.

Kilroy further testified that she sat with Petitioner at the kitchen table and was able to converse directly with Petitioner, who was able to respond cogently to questions. ID at

5. Kilroy found Petitioner to be pleasant, awake, alert, and properly oriented. Ibid. Petitioner was able to repeat their address correctly when asked and overall answered questions appropriately. Ibid. Kilroy observed Petitioner walking around the kitchen table and was able to conclude that Petitioner could ambulate freely without assistance. Ibid. Kilroy also observed Petitioner rise unassisted from a kitchen chair, walk across the room, and sit on a couch on multiple occasions during her interview, and concluded that Petitioner did not require assistance with transferring. Ibid.

Kilroy stated that prior to conducting the June 2024 assessment, she reviewed Petitioner's medical record and the diagnosis made by treating physicians, so she understood Petitioner's situation. Ibid. Kilroy used the "State approved PCA assessment tool" when she conducted the June 2024 assessment. Ibid.

S.H., who testified for Petitioner, agreed with most of the June 2024 assessment but believed that the Bathing and Feeding assessments failed to take into consideration the constant cueing that Petitioner requires. ID at 7. S.H. did not provide any evidence as to how much more time was needed for these ADLs. Ibid. S.H. further testified that Petitioner suffers frequent UTIs due to poor hygiene. Ibid. However, S.H. did not provide any medical documents in support of this claim. Ibid.

The Initial Decision affirmed Wellpoint's determination. The Administrative Law Judge (ALJ) found both of the witnesses, Kilroy and S.H., credible. ID at 12. The ALJ stated that Kilroy testified in an informed and straightforward fashion. Ibid. Kilroy noted that due to COVID-19 restrictions, her initial assessment relied solely on S.H.'s responses. Ibid. However, based upon the opportunity to personally interview and observe Petitioner in their home, major adjustments to the prior assessment were necessary. Ibid. S.H. was agreeable to most of the adjustments made but felt that due to the constant cueing Petitioner required more time for toileting and feeding should be

added. Ibid. S.H. did not provide any guidance as to how much time was necessary. Ibid. The ALJ concluded that Wellpoint has proven by a preponderance of the credible evidence that its decision to deny Petitioner's additional PCA hours. ID at 13. I concur.

In this case, Wellpoint implemented telehealth protocols for remote assessment in 2022. As Kilroy testified during the hearing, she relied on S.H.'s responses in the 2022 assessment and determined that Petitioner needed 18.5 hours. On June 26, 2024, Kilroy re-evaluated Petitioner in-person. Kilroy had the opportunity to observe and speak with Petitioner and S.H. in-person and determined that Petitioner needs 5 hours of PCA hours. I agree with the ALJ that Kilroy correctly determined the number of PCA hours Petitioner was entitled to during the June 26, 2024 assessment based on the level of assistance Petitioner needed. Kilroy used the PCA tool, specifying the range of time that may be allotted for each category, which complies with the regulation's express directive that health management providers calculate numerical scores based on Petitioner's needs.

I also agree with the ALJ's determination that S.H. expressed a need for additional PCA hours for bathing and feeding; however, she failed to demonstrate that the number of PCA hours awarded by Wellpoint was insufficient to meet Petitioner's needs. 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.

Based on my review of the record and based on the facts contained therein, I find that Wellpoint properly reduced Petitioner's PCA hours pursuant to Medicaid regulations as reflected in the June 26, 2024 assessment. Petitioner's PCA hours should be set at 5 hours per week until their next assessment. Should Petitioner's condition change, they may request a new reassessment.

THEREFORE, it is on this 26th day of June 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

*Gregory Woods*

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