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

M.G.,

PETITIONER,

v.

HORIZON NEW JERSEY
HEALTH AND DIVISION OF MEDICAL
ASSISTANCE AND HEALTH
SERVICES,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. No. HMA 04927-2024

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. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 6, 2025, in accordance with an Order of Extension.

This matter arises from Horizon New Jersey Health's (Horizon) April 1, 2024, denial of Petitioner's request for increased Private Duty Nursing (PDN) services from sixteen hours per day, seven days per week to twenty-four hours per day, seven days per week. ID at 1,2. Petitioner had been receiving PDN services twenty-four hours per day, seven days per week. ID at 2. After an assessment on February 7, 2024, Petitioner's PDN hours were reduced to sixteen hours per day, seven days per week. Ibid. Petitioner appealed Horizon's decision, and the matter was transferred to the OAL. Ibid. The OAL

hearing was scheduled for January 16, 2025. Ibid.

Prior to commencement of the OAL hearing, Horizon filed a motion to dismiss Petitioner's appeal. ID at 2. Horizon alleged Petitioner's appeal had become moot because Petitioner reached the age of twenty-one.¹ Ibid. An issue is moot when a decision sought in a matter, when rendered, can have no practical effect on the existing controversy. R.G. v. R.B., 2025 N.J. Super. Unpub. LEXIS 228, (App. Div. 2025). Issues that have become moot are improper subject 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"). Here, the ALJ granted Horizon's motion to dismiss Petitioner's appeal and determined that Petitioner's appeal to increase PDN hours from sixteen hours per day to twenty-four hours per day as moot because Petitioner had turned twenty-one. ID at 6. The ALJ also determined that PDN hours received from the Supports + Private Duty Nursing Program operated by the Division of Developmental Disabilities (DDD) should be restricted to sixteen hours as is the case for the Managed Long-Term Services and Support (MLTSS) program. Ibid. The ALJ further determined that although N.J.A.C. 10:60:5-9 does not specifically reference the DDD program, DMAHS includes the sixteen-hour PDN limitation in its contracts for PDN services. Ibid. Lastly, the ALJ relies on a recently issued decision, E.K. v. United Healthcare, OAL DKT No. HMA 08347-24, Initially Decided October 4, 2024, affirmed by the Agency December 2024, which upheld the sixteen-hour limitation for a DDD beneficiary. Ibid. As such, based on my review of the record, I hereby ADOPT the findings and conclusions of the ALJ as appropriate in this matter.

¹ The Initial Decision inadvertently notes Petitioner's age as sixteen rather than twenty-one. ID at 2.

By way of background, Petitioner is a twenty-one-year-old who receives PDN services under the DDD program. ID at 2. Petitioner has been diagnosed with severe spastic quadriplegia, periventricular leukomalacia, seizure disorder and other conditions. See Petitioner's Exceptions dated July 11, 2025. On February 7, 2024, prior to Petitioner turning twenty-one, Horizon performed an assessment which resulted in Petitioner's PDN hours being reduced from twenty-four hours to sixteen hours.² ID at 2. Horizon justified the reduction of PDN hours alleging a reduction was "warranted based on [Petitioner's] needs, but also mandatory because N.J.A.C. 10:60-5.8, regulates PDN services for adults and sets a maximum at [sixteen] hours per day." Ibid.

PDN services are defined as "individual and continuous nursing care, as different from part time or intermittent care, provided by licensed nurses in the home." N.J.A.C. 10:60-1.2. The Horizon contract entered into with the State of New Jersey sets forth that PDN services "shall be a covered service only for those beneficiaries enrolled in MLTSS and the DDD Supports Plus PDN program operated by DDD." See Respondent's Letter Brief, dated February 7, 2024, at Exhibit 6. The service limitations for adults over the age of twenty-one are provided under the MLTSS benefit and through the DDD Supports Plus program. Ibid.

N.J.A.C. 10:60-5.8 governs eligibility for PDN services under the MLTSS program. To maintain eligibility, however, there must be a capable primary caregiver who resides with the individual and accepts twenty-four-hour responsibility for the health and welfare of the beneficiary. N.J.A.C. 10:60-5.8(b)2. The primary caregiver also must agree to be trained or have been trained in the care of the individual and must agree to provide a minimum of eight hours of care to the individual during every twenty-four-hour period.

² Horizon did not provide any documentation relating to the February 2024 assessment.

N.J.A.C. 10:60-5.8(b)(3)-(4). Under N.J.A.C. 10:60-5.9, PDN services are to be provided in the home, are limited to a maximum of sixteen hours per day, and the primary caregiver must provide at least eight hours of daily care to the program beneficiary. The language in the contract for PDN services mirrors the New Jersey regulations, thus, an adult primary caregiver must provide eight hours of coverage for the beneficiary under both the MLTSS and Supports + PDN Medicaid waiver programs. Here, Petitioner is receiving the maximum allowable PDN hours available per Horizon contract and regulation. N.J.A.C. 10:60-5.9.

Despite these findings, on July 11, 2025, J.G., Petitioner's mother filed exceptions on Petitioner's behalf.

1) J.G, argues that based on Petitioner's medical condition, PDN hours should not have be reduced from twenty-four hours per day seven days per week to sixteen hours per day, seven days per week and that the ALJ's ruling to validate Horizon's reduction should be "rejected." See Petitioner's Exceptions, dated July 11, 2025. I disagree. The ALJ ruled in accordance with the mandates set forth in the regulation. N.J.A.C. 10:60-5.9(c). In fact, to receive PDN services, there must be an adult primary caregiver trained in the care of the individual that agrees to a minimum of eight hours of care during a twenty-four-hour period. N.J.A.C. 10:60-5.9(c)(2). Any deviation from the eight-hour care requirement applies in very limited situations such as when the sole caregiver has been hospitalized or for brief post-hospital periods while the caregiver adjusts to the new responsibilities of caring for the discharged beneficiary, the MCO or DMAHS may authorize, for a limited time, additional hours beyond the sixteen-hour limit. N.J.A.C. 10:60-5.9(c)(3). Importantly, such exceptions are intended to be time-limited and would not apply to a situation where, as in this case, PDN services beyond the sixteen-hour limit are requested indefinitely into the future. As such, the ALJ's ruling that Horizon was

correct to deny Petitioner's request for an increase in PDN hours was correct based on these facts.

2) J.G. also argues that because Petitioner is enrolled in the DDD program the sixteen-hour limitation should not apply because the DDD manual fails to specify a cap on PDN hours. I disagree. As noted by the ALJ, "failing to impose these regulations on the DDD Supports Program would mean that statutory limitations can be avoided depending on which program is selected, which is at odds with the age-based system established in the Administrative Code." ID at 5.

In addition, it is important to note that New Jersey receives federal authority to operate the MLTSS program, the Supports program, and the Supports+PDN program through a demonstration under Section 1115 of the Social Security Act. The specific terms of this demonstration are spelled out in the approved Special Terms and Conditions (STCs); the state is legally bound to follow these STCs. The STCs make clear that PDN services offered through the Supports + PDN program are the same PDN benefit as is offered by MLTSS and therefore must follow MLTSS rules. Specifically, the STCs note that individuals may not be simultaneously enrolled in MLTSS and Supports, "except that individuals who require private duty nursing services may access only that service from the MLTSS program and still remain on the Supports Program. Individuals enrolled in the Supports Program who are accessing Private Duty Nursing (PDN) from the MLTSS Program may be enrolled in any Medicaid eligibility group recognized within the Supports Program, MLTSS and will be able to access all Supports Program services." (New Jersey FamilyCare Comprehensive Demonstration, Special Terms and Conditions, 5.6(e)(i), (June 25, 2025), <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/nj-familycare-comp-demo-monitor-rdsgn-ovl-ltr.pdf>). This language makes abundantly clear that the PDN benefit for individuals enrolled in Supports

+ PDN is the same PDN benefit that is offered through the MLTSS program and is accordingly subject to the same rules and regulations.

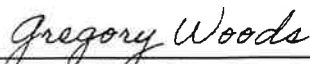
3) J.G. further argues that Horizon has failed to prove that Petitioner's medical needs changed before he turned twenty-one. Here, based on the February 7, 2024, assessment and current regulation Petitioner is receiving the maximum allowable PDN services per regulation. N.J.A.C. 10:60-5.9(c).

Accordingly, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision and FIND that dismissing Petitioner's appeal was appropriate in this matter.

THEREFORE, it is on this 6th day of OCTOBER 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED as set forth above.



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