



PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
Division of Medical Assistance and Health Services
P.O. Box 712
Trenton, NJ 08625-0712

SARAH ADELMAN
Commissioner

GREGORY WOODS
Assistant Commissioner

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

M.J.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
HORIZON,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 00836-25

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 May 27, 2025, in accordance with an Order of Extension.

This matter concerns the denial of Petitioner's request for twenty-four hours per day of private duty nursing (PDN) hours by Horizon.

Private duty nursing 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. To be considered in need of PDN services, "an individual must exhibit a severity of illness that requires complex intervention by licensed nursing personnel." N.J.A.C. 10:60-5.3(b).

Private duty nursing services shall be limited to a maximum of sixteen hours, including services provided or paid for by other sources, in a twenty-four-hour period per person. N.J.A.C. 10:60-5.9(c). There shall be a live-in primary adult caregiver who accepts twenty four-hour per day responsibility for the health and welfare of the beneficiary unless the sole purpose of the private duty nursing is the administration of IV therapy. Ibid.

In emergency circumstances, for example, 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 16-hour limit. N.J.A.C. 10:60-5.9(c)(3). Respondent is limited to authorizing up to sixteen (16) hours of PDN pursuant to the regulatory limitation for beneficiaries over the age of twenty-one. N.J.A.C. 10:60-5.9(c).

In this case, Petitioner was twenty-five at the time of the Fair Hearing. Petitioner turned twenty-one years old in 2020, during the COVID-19 public health emergency. ID at 3. At that time, a moratorium on reductions and terminations was in place but is no

longer applicable now. Ibid. At the Fair Hearing, Horizon filed a motion for summary decision under N.J.A.C. 1:1-12.5.

In the Initial Decision the Administrative Law Judge (ALJ) found that this case was ripe for summary decision since there were no issues of material fact in dispute and that respondent is entitled to summary decision as a matter of law. Ibid. The ALJ further found that under the regulations, the Petitioner is only entitled to sixteen hours of PDN services a day. I agree. According to N.J.A.C. 10:60-5.9(c), PDN services are limited to sixteen hours per day within a twenty-four-hour period. Additionally, N.J.A.C. 10:60-5.9(c)(2) requires that a primary live-in adult caregiver must meet the beneficiary's skilled needs for at least eight hours every day.

The ALJ concluded that Horizon's denial of twenty-four hours of PDN services per day was appropriate. Id. at 4. I concur with the findings of the Initial Decision. Petitioner is subject to the regulatory proscriptions of N.J.A.C. 10:60-5.9(c), which limits PDN services to a maximum of sixteen hours daily and requires the primary caregiver to provide eight hours of care daily. Combined, the regulation ensures a total of twenty-four hours of daily care. Furthermore, the Petitioner did not allege any emergency circumstances that would authorize, for a limited time, additional hours beyond the 16-hour limit.

Thus, for the reasons stated above, I find that Horizon's denial of twenty-four hours of PDN services, was appropriate.

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

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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