

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.

The Petitioner is a thirty-one-year-old with autism, severe ADHD, sensory integration dysfunction, and severe learning disabilities. ID at 2. They were previously authorized to receive twenty-five PCA hours per week. Ibid. An assessment of the petitioner was done on June 9, 2018, which determined that they were entitled to 6.75 hours per week of PCA services. R-5. Due to the COVID-19 state of emergency, the number of hours of PPP given for PCA services was not reduced. Then on November 14, 2024, an assessment found that the petitioner was eligible to receive 6.59 hours per week, which was rounded up to seven. ID at 2. The Fair Hearing focused on the following sections of the PCA tool: bathing or washing in the tub, shower, bed, or chair; combing, brushing hair, brushing teeth, and nail care; meal planning, sorting, preparing, serving, and cleaning; and laundry. Ibid. The parties stipulated that the Tool's remaining sections were evaluated correctly. Ibid.

Jennifer Kilroy, a Registered Nurse, testified on behalf of the Respondent at the Fair Hearing. On November 14, 2024 Kilroy, performed a reassessment of Petitioner's PCA services to determine the hours of care needed. Id. at 3. Kilroy observed that when

she arrived, the Petitioner's mother, K.M., was trying to locate the Petitioner who was on a walk in the neighborhood. Ibid. At the beginning of the meeting, she sat with K.M. at the kitchen table to discuss the Petitioner's abilities and limitations. Id. at 4. Kilroy testified that the amount of time required for bathing depended upon whether the Petitioner needed physical assistance, which she asked K.M. about. Ibid. According to her testimony, Kilroy was told by K.M. that the Petitioner needs assistance with washing their hair and cueing and allotted ten minutes. Ibid. To score the maximum allotted time for full assistance in this area, the Petitioner must be unable to assist and must require the assistance of a caregiver to wash him from head to toe. Ibid. She also testified that K.M. said that the Petitioner did not need assistance with personal hygiene and was able to comb their hair and brush their teeth. Kilroy noted that the Petitioner had a beard that they were growing and did not shave. Ibid. Kilroy thus allotted zero minutes for personal hygiene care. Ibid. To receive an allotment of minutes for personal hygiene, Kilroy stated that the Petitioner would need physical assistance with brushing his teeth. Ibid. Additionally, K.M. told Kilroy that the Petitioner can make their own breakfast and lunch but not dinner. Ibid. Thus, the number of minutes needed for meal prep was allotted at twenty per day. Ibid. Finally, K.M. told Kilroy that the Petitioner completes their own laundry. Thus, no time was allotted for this task. Ibid.

The Petitioner's primary daily caregiver, Deborah Daly, also testified. Daly works for the family through the personal preference program. Ibid. Daly testified that when she bathed the Petitioner, the entire process, including prompting to drying, required an average of sixty to ninety minutes. Ibid. She also testified that sometimes she would brush the Petitioner's teeth, but sometimes she could prompt the Petitioner to do it themselves. She stated that the Petitioner requires assistance shaving, using deodorant, and combing his hair. Id. at 5. She also stated that she prepares three meals a day for

the Petitioner and that they never cook. Ibid. Finally, Daly testified that the Petitioner is unable to go anywhere and the only thing he does alone is walk in the yard. Ibid. On cross-examination Daly clarified that she never physically bathes the Petitioner. She also clarified that the Petitioner could comb their hair but is sometimes too rough and will pull their hair out with the comb. Ibid.

K.M. testified that Kilroy was only in the home for fifteen minutes and could not have been able to accurately assess the Petitioner's condition. Ibid. She also stated that the Petitioner does not have the ability to make a decision to grow a beard. Ibid. Thus, Kilroy could not have determined that is the reason why the Petitioner did not shave. She also stated, that the Petitioner goes to school on Tuesday and Thursday and has never made any meals themselves. Ibid. In her post-hearing submission, K.M. wrote that the Petitioner is not capable of independently washing properly and needs reminders to wash themselves and use soap. She believes at least an hour a day should be allocated for these tasks. P-1. K.M. stated the Petitioner needs to be prompted to put on deodorant, shave, or comb their hair. ID at 5. She stated that the Petitioner can get dressed but needs help tying their shoes and choosing appropriate clothing for the weather. Ibid. The Petitioner also needs to be prompted to change their clothes. Ibid. The Petitioner can take clothes out of the washer and dryer, but cannot do laundry unsupervised and cannot fold them and put them away. Ibid.

In the Initial Decision, the Administrative Law Judge (ALJ) found that K.M. wavered in her opinion and had contradictions in her submission to the tribunal and her testimony. Id. at 6. The ALJ found her conflicting testimony less persuasive than that of Nurse Kilroy or Daly. Ibid. The ALJ found Daly testified credibly that the Petitioner was able to perform some tasks when given directions and elaborated that although the Petitioner needed direction, they could physically perform the actions. Ibid. She did not waver and did not

blindly agree with K.M. Ibid. Nurse Kilroy credibly testified that she followed the criteria laid out on the state PCA form and scored it accordingly. Ibid. The ALJ found her to be highly credible as her testimony matched what was on the form and she did not waver. Ibid. She also applied the criteria effectively throughout her testimony while explaining her scores. Ibid.

The ALJ found that the Petitioner receives assistance with meals and there is no evidence in the record refuting that the score given was incorrect as the Petitioner can, when prompted, feed themselves and does not need to be fed by their caregivers. Ibid. The ALJ also found that the Petitioner does not need physical assistance to perform acts of personal hygiene. They can be told what to do and perform those tasks. Additionally, the ALJ found that the Petitioner was scored appropriately on the PCA assessment tool because they can bathe themselves with supervision and direction. The primary caregiver does not bathe the Petitioner but supervises. Ibid. Finally, the ALJ found that Kilroy stated that K.M. told her that the Petitioner could do their own laundry and scored them a zero for this reason. Id. at 7. Based upon the testimony and evidence presented, the correct score was given per the guidelines as they are listed on the Tool. Ibid. As such, the ALJ concluded that Wellpoint's reduction of PCA hours was appropriate.

Here, the ALJ thoroughly analyzed the specific areas in dispute. However, there is no explanation of the change in the member's clinical condition to support the change in hours. This is a critical consideration; as such, the record on this point needs to be further developed to determine whether Petitioner's condition meets the requirements for PCA services. Specifically, Wellpoint should provide additional information regarding the change in Petitioner's current medical condition that would justify PCA services being reduced. The timeline of assessments is also unclear and requires clarification. While the Initial Decision indicates that the outcome of June 2018 assessment was not implemented

due to the COVID-19 pandemic, it is unclear how this could be the case, since the public health emergency did not begin until 2020. The record should be expanded to clarify this point, and to further document the process through which the Petitioner was initially assessed as eligible for twenty-five hours of PCA service per week, including any appeals or fair hearings that were part of that process.

Accordingly, for the reasons set forth above, I hereby REVERSE the Initial Decision, and REMAND the matter to further develop the record, clarify the timeline of assessments and confirm they were all conducted through Wellpoint, and to directly assess the question of what changed in Petitioner's clinical condition that would justify PCA services being reduced in accordance with the above requests.

THEREFORE, it is on this 21st day of August 2025,

ORDERED:

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



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