



PDN hours from twelve hours per day, seven days per week to eight hours per day, seven days per week. Petitioner filed a request for an internal appeal which was reviewed on February 7, 2024, and March 11, 2024. R-4, R-5. Both reviews upheld the decision to reduce PDN hours. Ibid. Thereafter, Petitioner filed an external appeal with an independent utilization review organization through Maximus Federal Services, Inc. R-6. On April 1, 2024, the reviewer at Maximus upheld Horizon's decision to reduce Petitioner's PDN hours finding that, 1) Petitioner's condition is stable, 2) Petitioner had no recent hospitalizations or decline in baseline and 3) a trained caregiver could manage Petitioner's care when a PDN is not present. Ibid. Based on these findings, the reviewer determined that eight hours per day, seven days per week would satisfy Petitioner's needs and that PDN services are not to be implemented to serve as substitute for parenting tasks. Ibid.

On December 13, 2024, an Initial Decision was issued wherein the ALJ determined that Horizon's decision to reduce Petitioner's PDN services to eight hours a day, seven days a week was appropriate. The ALJ reached this decision after determining that Petitioner's required skilled nursing interventions could be completed without issue during the eight hours authorized, that Petitioner's needs fall within "the category of routine parenting, which is not countable under N.J.A.C. 10:60-5.4(f), or they are addressed by the PCA hours," and that Petitioner's clinical needs were assessed with reliable information. ID at 3, 4.

The regulations state that private duty nursing services are defined as "individual and continuous nursing care, as different from part-time intermittent care, provided by licensed nurses in the home . . ." N.J.A.C. 10:60-1.2. To be considered for PDN services an individual must "exhibit a severity of illness that requires complex skilled nursing interventions on an ongoing basis." N.J.A.C. 10:60-5.3(b). "Complex" means the degree

of difficulty and/or intensity of treatment/procedures.” N.J.A.C. 10:60-5.3(b)(2). “Ongoing” is defined “as the beneficiary needs skilled nursing intervention 24 hours per day/seven days per week.” N.J.A.C. 10:60-5.3(b)(1). The regulations define “skilled nursing interventions” as procedures that require the knowledge and experience of licensed nursing personnel, or a trained primary caregiver.” N.J.A.C. 10:60-5.3(b)(3).

Medical necessity for EPSDT/PDN services shall be based upon, but may not be limited to, the following criteria in (b) or (b)(2) below:

1. A requirement for all of 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)

In addition, the regulation goes on to exclude certain criteria that do not rise to the level of PDN services unless the criteria above is met:

(d) Services that shall not, in and of themselves, constitute a need for PDN services, in the absence of the skilled nursing interventions listed in (b) above, shall include, but shall not be limited to:

1. Patient observation, monitoring, recording or assessment;

2. Occasional suctioning;
3. Gastrostomy feedings, unless complicated as described in (b)1 above; and
4. Seizure disorders controlled with medication and/or seizure disorders manifested by frequent minor seizures not occurring in clusters or associated with status epilepticus.

N.J.A.C. 10:60-5.4(d).

While there is no question that Petitioner meets the criteria for PDN services, additional questions remained as to whether the ALJ's determination that Horizon's decision to reduce Petitioner's PDN hours involved an accurate review of Petitioner's entire medical record that supported Horizon's assessment. To make this determination, the undersigned issued an Order of Remand on March 12, 2025, which reversed the Initial Decision and remanded the matter to further develop the record. More specifically, the Order of Remand sought a review of all relevant information and documentation which pertained to Petitioner's medical condition at the time of the assessment and clarification regarding any change in Petitioner's medication condition at the time of the assessment that would justify a reduction of PDN hours from twelve hours per day, seven days per week to eight hours per day, seven days per week.

In response, the ALJ took additional testimony on June 11, July 2 and August 25, 2025, to further develop the record. ID at 2. In light of the supplemented record, notable changes to Petitioner's medical condition were clarified which included information that Petitioner no longer experienced sleep disturbance, no longer required a lift for ambulation, no longer required ROM exercises, no longer needed oxygen maintenance and no points were allocated under case management or combative behavior. ID at 3. In addition, the ALJ carefully considered and responded to the concerns raised in the Initial Decision by the content set forth in the paragraph below:

Parentetically, on September 26, 2024, A.B. provided Horizon NJ Health (Horizon) an Individualized Education Program (in

effect May 2024), a Functional Behavioral Assessment (dated February 2024), and a home physical therapy exercise plan (dated August 2024). (P-1; P-2; P-3; P-4.) These documents, however, were not made known to Horizon at the time of the assessment. The Individualized Education Program indicates that a toilet training plan was in place and that the skilled nurse during school hours facilitated that toilet training plan, but Nurse D'Agostino failed to document it. (P-4.) As a result, Nurse D'Agostino did not award points on the PDN acuity tool for the toilet training program, or for physical therapy or occupational therapy either. Since no interventions were documented by the servicing skilled nurse, Nurse D'Agostino was not able to credit those categories in the PDN tool. There are also some errors in the nursing notes. For example, the nursing notes document that care was given at school on days when school was not in session.<sup>1</sup>

Another issue of concern is whether the key factual questions raised, but unanswered in the above paragraph, were clarified with supplemental information. During the OAL hearing on remand, Nurse D'Agostino testified that Petitioner "did not and should not receive points for potty training since the training consisted of timed trips to the bathroom, not the assistance of medical equipment." ID at 4. As for physical and occupational therapy, Nurse D'Agostino did not change her opinion since Petitioner's trained caregiver was home to assist with these exercises. Ibid. Third, and perhaps most compelling, is that Petitioner's witness, Nurse T.M., who had cared for Petitioner in prior years but not in 2024 reviewed all of the exhibits and agreed that Petitioner received points in all appropriate areas during the February 2024 assessment and that the assessment "appropriately took into account the award of PCA hours." Ibid. Finally, Nurse T.M. confirmed that Nurse D'Agostino considered the appropriate documents when she conducted the assessment. Ibid. As such, based on a review of the totality of evidence, the ALJ satisfactorily supplemented the record with the additional information needed to make a final determination.

---

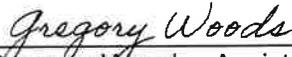
<sup>1</sup> This paragraph was set forth in the Initial Decision under HMA 04639-2024.

Accordingly, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision and find that Horizon's reduction of PDN hours was appropriate in this matter.

THEREFORE, it is on this 5th day of JANUARY 2026,

ORDERED:

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

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