

disease (GERD), presence of a nasogastric tube, benign infantile myoclonus, and developmental delay. (R-4). Petitioner's parents request that Wellpoint authorize eight hours per day of PDN services. On August 28, 2025, Wellpoint's internal appeal review upheld the approval of four hours per day and the denial of eight hours per day of PDN services. (R-3). On September 8, 2025, Maximus performed an external appeal, which upheld Wellpoint's determination. (R-3).

The regulations state that the purpose of PDN services is to provide "individual and continuous nursing care, as different from part-time intermittent care, to beneficiaries who exhibit a severity of illnesses that require complex skilled nursing interventions on a continuous ongoing basis." N.J.A.C. 10:60-5.1(b). To be considered in need of EPSDT/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). "Complex means the degree of difficulty and/or intensity of treatment/procedures." N.J.A.C. 10:60-5.3(b)(2). 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). Further, N.J.A.C. 10:60-5.4(b) sets forth the criteria to be met in order to receive PDN services:

(b) Medical necessity for EPSDT/PDN services shall be based upon, but may not be limited to, the following criteria in (b)1 or 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.

Additionally, 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).

Once medical necessity is established, the following criteria impact the extent of authorized PDN hours:

1. Available primary care provider support;
 - i. Determining the level of support should take into account any additional work related or sibling care responsibilities, as well as increased physical or mental demands related to the care of the beneficiary;
2. Additional adult care support within the household; and
3. Alternative sources of nursing care.

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

During the fair hearing, registered nurse Tina Greene (Nurse Greene) testified that she reviewed Petitioner's records and qualified petitioner for four hours of PDN services per day. ID at 3. To make that determination, Nurse Greene reviewed a letter of medical necessity from a doctor or hospital and then compared their recommendations to PDN criteria. Ibid. Nurse Green used the "state approved" Acuity Scale to determine Petitioner's score of 19.5 points. Ibid. Points were given in the August 2025 analysis for

nutrition, continuous feeding, aspiration precautions, medication administration, family dependents, stressors and safety. Ibid. Using the Acuity Scale chart, sixteen through twenty points allowed for a maximum of four hours of PDN services per day. Ibid.

During the fair hearing, registered nurse Suzanne Veit (Nurse Veit) also testified for Wellpoint. She testified that her job was to review Nurse Greene's assessment to see if her findings complied with the PDN criteria. ID at 4. Nurse Veit determined that the assessment was performed correctly. Ibid.

Lastly, Jane Dijamco (Nurse Dijamco), a case manager for Wellpoint testified. ID at 4. As a case manager, she also performed a comprehensive nursing assessment, but since Petitioner refused case management, Nurse Dijamco did not provide monthly calls to Petitioner. Ibid.

During the fair hearing, Petitioner's father discussed a finding by the Children's Hospital of Philadelphia (CHOP) that indicated Petitioner had weight loss issues. ID at 5. Petitioner stated that CHOP indicated that 18 hours of PDN services per day were required. Ibid. A recent letter from Dr. Robert Shanik was submitted that concluded Petitioner needed eight hours of PDN services per day to administer feeds and for skilled nursing monitoring. (P-1). The letter did not indicate whether Dr. Shanik ever treated Petitioner and the letter gave a conclusion to the ultimate issue in this case without providing any analysis. Ibid.

Michelle Borawski also testified for Petitioner. She claimed to be a nurse who provided at-home care, but no qualifications were provided for her at the hearing. ID at 5.

In the Initial Decision, the ALJ found the three nurses who testified for Wellpoint to be experienced, knowledgeable and credible witnesses. ID 3-4. The ALJ did not find

Petitioner's father's opinions related to Petitioner's medical issues to be credible. ID at 5. Regarding Michelle Borawski, the ALJ did not assign any weight to her testimony as no expert qualifications or work history were provided. ID at 6.

Here, Wellpoint and the ALJ place emphasis on Petitioner's PDN Acuity score to conclude that four hours of PDN services is appropriate in this matter. However, it is important to note that the PDN Acuity Tool used by Wellpoint appears nowhere in state regulations and is neither mandated nor endorsed by DMAHS. While Wellpoint is permitted to use such a tool to assist with their assessment of a member's need for services, the fact that a member's score on such a tool is below a given threshold does not in itself demonstrate that the member does not qualify for any specific amount of PDN services. Rather, the MCO must demonstrate that the member does not qualify for PDN hours with reference to the underlying medical necessity standard, as articulated in state regulations. It is Wellpoint's burden to demonstrate that a reduction or termination of PDN hours is appropriate. See Atkinson v. Parsekian, 37 N.J. 143, 149 (1962); and Cosme v. Figueroa, 258 N.J. Super. 333, 338 (Ch. Div. 1992).

The Initial Decision notes that "Although respondent denied petitioner's request for eight daily PDN hours, it did approve four daily hours, and thus, this matter was treated as if respondent was terminating four hours per day by seeking a reduction in daily PDN hours. The burden of proof in this case was therefore deemed to be on the respondent." I agree. The record shows that Petitioner was approved for eight hours of PDN services and Petitioner then had their PDN hours reduced to four hours. After performing the assessment in August 2025, Nurse Greene determined that Petitioner was entitled to four hours per week of PDN services, not the eight hours that Petitioner requested. Therefore, the burden is on Wellpoint to show how Petitioner's clinical condition changed since the previous assessment to justify a different outcome. On that point, based on the

summaries in the Initial Decision, it appears that none of the witnesses who testified for Wellpoint addressed how Petitioner's clinical condition changed since the previous assessment to justify a reduction of PDN hours. Additionally, Nurse Green, who conducted the August 2025 reassessment, primarily focused on how she assigned points to the Acuity Scale to explain how the four hours of PDN services were established, and not on the underlying question of medical necessity. When taking a closer look at the denial letter dated August 22, 2025, the only mention of any change in Petitioner's clinical condition is, "Your child gained weight better recently." (R-2). This single sentence is not sufficient for Wellpoint to meet their burden to show how Petitioner's clinical condition had changed to justify a reduction of PDN services, especially when the record shows that Petitioner had a recent hospitalization related to feeding difficulties and malnutrition. ID at 2.

Thus, based on the record before me and for the reasons set forth herein, I hereby REVERSE the Initial Decision in this matter and find that the reduction in Petitioner's PDN hours was unwarranted. It appears it has been approximately six months since Petitioner's last assessment, which makes it difficult to determine the amount of services that Petitioner currently requires. Therefore, Petitioner's current status must be reassessed, keeping in mind that with the reduction or termination of PDN hours, there must be evidence and/or testimony specifically addressing the change in Petitioner's condition that warranted the change.

THEREFORE, it is on this 4th day of FEBRUARY, 2026,

ORDERED:

That the Initial Decision is hereby REVERSED and that Petitioner's PDN hours be restored to the level of eight hours per day, seven days per week. Wellpoint shall reassess Petitioner's current medical condition to determine Petitioners present medical necessity for PDN services, within four weeks of the date of this decision.

Gregory Woods

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