



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

A.B.,

PETITIONER,

v.

HORIZON NJ HEALTH,

RESPONDENT

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NOS. HMA 08219-16
HMA 04018-16

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence, the contents of the OAL case file and Petitioner's exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 1, 2016 pursuant to an Order of Extension.

This appeal stems from Horizon NJ Health's termination of Petitioner's adult day health care services and the denial of Petitioner's Personal Care

Assistant (PCA) services. On June 16, 2016, the parties reached a settlement regarding PCA services whereby Petitioner will receive 20 hours of PCA services per week. On July 19, 2016, a hearing regarding Petitioner's eligibility for adult day health services was held. In the Initial Decision affirming Horizon's termination of services, the ALJ determined that Petitioner does not satisfy the clinical eligibility criteria necessary to qualify for adult day health services (ADHC) pursuant to N.J.A.C. 10:164-1.5.

In order to qualify for ADHC services, the regulations state that the individual must require limited assistance with a minimum of two activities of daily living (ADL) provided by the facility, have at least one skilled service provided by the facility, a rehabilitation need or require supervision and cueing in at least three ADLs and have problems with cognitive functioning. N.J.A.C. 10:164-1.5(f).

The ALJ agreed with Horizon's denial, agreeing that A.B. has no skilled service need or sufficient ADL deficiencies to necessitate ADHC. Although I agree with the ALJ that Petitioner does not satisfy the ADL criteria to attend ADHC, I find that the record is unclear with respect to Petitioner's need for a skilled service provided at the facility.

Petitioner contends that he meets the criteria for ADHC because his need for blood glucose and blood pressure monitoring qualifies as a skilled service. However, Petitioner indicated that he checks his blood pressure and blood sugar himself. Moreover, there has been no indication that he had unstable blood glucose or blood pressure that required continuous physician or advanced

practice nurse intervention. This is clearly a regulatory requirement. Indeed, N.J.A.C. 10:164-1.2 specifically states: skilled service “means a needed skilled service provided by an RN or a licensed practical nurse, including but not limited to: . . . (3). Nurse monitoring (for example, medication administration, pacemaker checks, or the monitoring of urinary output, unstable blood glucose or unstable blood pressure that requires physician and/or advanced practice nurse intervention) . . .” (emphasis added).

Petitioner also contends that his need for medication management satisfies the skilled service requirement to attend ADHC in accordance with N.J.A.C. 10:164- 1.2. The June 13, 2016 assessment makes clear that Petitioner takes several medications on a daily basis. What is unclear is whether this is the type of skilled service need that is contemplated by the regulations that must be addressed by a nurse at medical day care. N.J.A.C.10:60-3.3(a)3 permits Petitioner’s PCA aide to provide assistance with medications that can be self-administered, such as reminding him to take these medications. However, the aide is not permitted to do more, such as making sure that he is taking the correct medication and dosage or assessing if there are any side effects. It may be that a reminder is enough and that A.B. does not require the type of daily assistance with his medications provided at an ADHC facility. Petitioner was not attending ADHC at the time of the most recent assessment.¹ Therefore, the nurses’ notes from the facility were not considered in Horizon’s assessment. The

¹ According to Petitioner’s attorney, A.B.’s hearing request regarding the termination of ADHC was mistakenly withdrawn. As a result, he did not attend ADHC for several months. However, Horizon permitted the hearing request to be reinstated and also reinstated A.B.’s ADHC services effective June 23, 2016, pending the outcome of this appeal.


nursing notes will indicate the type of assistance provided to Petitioner with respect to his medications as well as whether his blood pressure and blood sugar were unstable so as to require medical intervention.

As a result, I find that the matter should be returned to Horizon for another assessment to determine if Petitioner satisfies the skilled service requirement necessary to qualify for adult day health services.

THEREFORE, it is on this 16th day of November 2016,

ORDERED:

That this matter is returned to Horizon NJ Health to perform a reassessment. Petitioner's ADHC services shall be continued pending the reassessment.


Meghan Davey, Director
Division of Medical Assistance
and Health Services