



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

J.L.,

PETITIONER,

v.

UNITED HEALTHCARE,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 04148-16

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 United Healthcare's exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 22, 2016 in accordance with N.J.S.A. 52:14B-10, which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on July 8, 2016.

Based upon my review of the record, I hereby MODIFY the Initial Decision of the Administrative Law Judge. The ALJ reversed United Healthcare's termination of Petitioner's 13 hours of weekly personal care assistant (PCA) and ordered that Petitioner be provided with 8 hours per week. The ALJ's decision was based upon his finding that Petitioner needs assistance with household duties such as meal preparation, housekeeping and laundry. This finding is incorrect if Petitioner is independent with the activities of daily living. Indeed, in order to qualify for PCA services, Petitioner must require hands-on assistance with the activities of daily living (ADLs). See United Healthcare's exceptions at page 2, citing to J.D. v. United Healthcare, HMA 09845-14, Final Agency Decision (November 24, 2014).

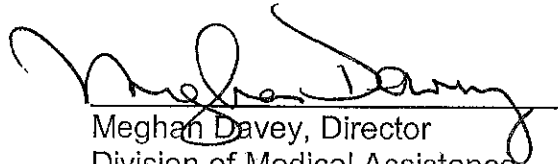
United Healthcare contends that it is undisputed that Petitioner does not require assistance with ADLs and therefore its decision to termination PCA services should be upheld. My concern with this argument is based on J.L.'s testimony at the hearing that the aide helps him with bathing "because he cannot bend too far and he cannot do his back. J.L. gestured that his feeding tube and his inability to turn his neck make it difficult for him to turn and bend". See Initial Decision at page 4. On the other hand, the February 18, 2016 assessment finds that J.L. requires no assistance with bathing.

Due to the inconsistency in Petitioner's need for assistance with ADLs, I find that a reassessment is warranted to address the discrepancy in Petitioner's need for assistance with bathing. Petitioner's services shall be continued at 13 hours per week pending the reassessment.

THEREFORE, it is on this 10th day of August 2016,

ORDERED:

That United Healthcare perform a reassessment.

A handwritten signature in black ink, appearing to read "Meghan Davey", written over a horizontal line.

Meghan Davey, Director
Division of Medical Assistance
and Health Services