



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P.O. Box 712
Trenton, NJ 08625-0712

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

F.R.,

PETITIONER,

v.

HORIZON NJ HEALTH,

RESPONDENT

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ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 01570-16

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. Both Parties filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 17, 2017 pursuant to an Order of Extension.

Based upon my review of the record, I FIND there is insufficient evidence to establish that Petitioner satisfies the clinical eligibility criteria necessary to

qualify for the Pediatric Medical Day Care (PMDC) program. In order to qualify for the program, a child must be technologically dependent and/or medically complex. A "technology-dependent child" is defined as "a child who requires a specific class III medical device to compensate for the loss of a bodily function to avert death or further disability and ongoing skilled nursing intervention in the use of the device." N.J.A.C. 8:87-1.2. Since Petitioner is not technology-dependent, in order to qualify for pediatric medical day care, she must be medically complex. A "medically complex child" is defined as "a child who exhibits a severity of illness that requires ongoing skilled nursing intervention." N.J.A.C. 8:87-1.2. Petitioner has been diagnosed with asthma. The assessment criteria for this diagnosis is:

The presence of moderate persistent or severe persistent asthma requiring **nebulizer treatments more than twice a day** and **frequent medication adjustment** in accordance with the Asthma Guidelines. See N.J.A.C. 8:87-3.1(b)(4)(vii). (Emphasis added).

The ALJ found that F.R. satisfies these criteria and that eligibility for PMDC should continue. The ALJ based his decision on the fact that F.R. was originally diagnosed with moderate persistent asthma, receives three nebulizer treatments each day and has her medication changed each time it has been reviewed. For the reasons set forth more fully in Respondent's Exceptions, I disagree.

The medical records show that F.R.'s last appointment at St. Christopher's Hospital for Children (St. Christopher's) resulted in a change to her condition from moderate persistent asthma to mild asthma. The ALJ dismissed this diagnosis because the determination was made by a Certified Registered Nurse Practitioner. ~~Certified Registered Nurse Practitioners are permitted to diagnose~~

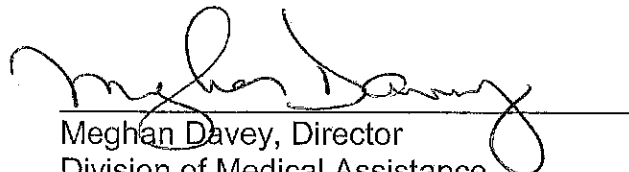
and treat many conditions. N.J.S.A. 45:11-49. Here, F.R. was seen by a nurse practitioner who diagnosed her with mild persistent asthma. As a result, F.R. does not meet the first requirement for PMDC pursuant to N.J.A.C. 8:87-3.1(b)(4)(vii). Furthermore, the changes to F.R.'s medication are not frequent pursuant to the Asthma Guidelines. As highlighted by the expert testimony of Dr. Matthew Toohey, a Medical Director at Horizon and a board certified pediatrician, F.R.'s records show only one step up in medication and adjustments in medications that were merely "variations of in the same class of medication or differences between brand name and generic medications used to treat asthma." (Respondent's Exceptions at pg. 5).

While F.R. does have asthma, I agree with the Respondent that she does not require the type of ongoing skilled nursing care provided in a medical day care

THEREFORE, it is on this ^{17th} day of August 2017,

ORDERED:

That the recommended decision reinstating eligibility for the Pediatric Medical Day Care program hereby REVERSED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services