



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.M.,

PETITIONER

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

v.

OAL DKT. NO. HMA 14778-15

UNITED HEALTHCARE,

RESPONDENT.

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 entire 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 May 15, 2017, 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 March 30, 2017.

Based upon my review of the record and for the reasons which follow, I hereby MODIFY the Initial Decision affirming the provision of 16 hours of private duty nursing services per day. I FIND that an assessment is warranted.

Petitioner initially received private duty nursing services through her private insurance carrier which permitted a maximum of 512 hours of private duty nursing care per year. After Petitioner exhausted those private duty nursing hours, United Healthcare approved Petitioner for 16 hours per day stating that "there is a limit of PDN for 16 hours/day."

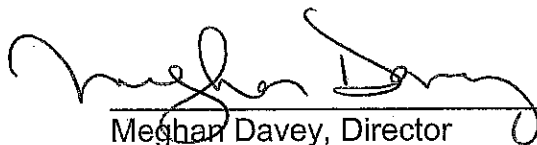
That statement is inaccurate as it does not pertain to children under the age of 21 who are eligible to receive Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services. Rather, these children are entitled to receive any medically necessary service. While approval for services is based upon medical necessity, the volume, scope and duration of the approved service may take into account the availability of other medically appropriate, cost-effective alternatives. In this case, United Healthcare authorized 16 hours of private duty nursing based upon the regulatory restriction applicable to adults over the age of 21¹. As a result, I FIND that an assessment is needed in order to determine the amount of medically necessary private duty nursing services that Petitioner requires on a daily basis.

THEREFORE, it is on this *3rd* day of May 2017,

ORDERED:

¹ See N.J.A.C. 10:60-5.3 and 5.4, which impose a 16 hour daily limit on private duty nursing from all sources and require the primary caregiver to provide a minimum of 8 hours of daily hands-on care.

That this matter is returned to United Healthcare to perform a reassessment. Should Petitioner disagree with the results of that assessment, she may request a fair hearing at that point.



Meghan Davey, Director
Division of Medical Assistance
and Health Services