



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

PO Box 712

TRENTON, NJ 08625-0712

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

CAROLE JOHNSON
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

D.S.

PETITIONER,

v.

HORIZON NEW JERSEY HEALTH,
RESPONDENT.

:
:
:
:
:
:
:
:
:
:
:

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 14101-18

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this matter including the Initial Decision and the contents of the OAL case file. No Exceptions to the Initial Decision were filed. Procedurally, the time period for the Agency Head to render a Final Agency Decision is January 23, 2020, 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 receipt. The Initial Decision was received on December 9, 2019.

This matter arises from Horizon New Jersey Health's (Horizon) September 7, 2018 determination that Petitioner should receive 14 weekly hours of Personal Care Assistance (PCA) service. The determination was properly appealed to the Division of Medical

Assistance and Health Services (DMAHS) Fair Hearing Unit and transmitted to the Office of Administrative Law (OAL) on September 24, 2018. On January 14, 2019, Horizon reassessed the Petitioner and found that he should receive 15 hours of PCA services. Based on my review of the record, I hereby ADOPT the findings, conclusions and recommended decision of the Administrative Law Judge (ALJ) in their entirety and incorporate the same herein by reference.

Petitioner is a Medicaid eligible individual currently receiving 20 hours per week of PCA services. He elects to receive those services through the Personal Preference Program (PPP) which permits the eligible recipient to hire a caregiver of their choosing, in this case his aunt. PCA services are non-emergency, health related tasks to help individuals with activities of daily living (ADLs) and with household duties essential to the individual's health and comfort, such as bathing, dressing, meal preparation and light housekeeping. The decision regarding the appropriate number of hours is based on the tasks necessary to meet the specific needs of the individual and the hours necessary to complete those tasks. Once PCA services are authorized, a nursing reassessment is performed every six months, or more frequently if warranted, to reevaluate the individual's need for continued care. N.J.A.C. 10:60-3.5(a)3; J.R. v. Div. of Med. Assist. & Health Servs. and Div. of Disability Servs., No. A-0648-14 (App. Div. April 18, 2016). (Op. at 9).

In a thorough and well-reasoned decision, the ALJ affirmed Horizon's decision to provide the Petitioner with 15 hours of weekly PCA services. In reaching this decision, I accept the ALJ's fact-findings, which are based, in part, upon her assessment of the witnesses who testified at the administrative hearing. The fact-finder's assessment of the credibility of witnesses is entitled to deference by the reviewing agency head. Clowes v. Terminix, 109 N.J. 575 (1988).

It is apparent from the record that the ALJ took into account the documentary evidence and testimony of the witnesses to determine the appropriate amount of PCA hours for the Petitioner. Accordingly, the ALJ found Horizon's witness to be credible and

consistent with the testimony of Petitioner's caregiver. Conversely, the ALJ found Petitioner's expert witness's testimony to be inconsistent with the testimony of his caregiver, the reports and physical condition of the Petitioner, and therefore, not credible. Petitioner took no exception with these findings.

I find that the credible evidence in the record supports Petitioner's need for 15 weekly hours of PCA services. If the necessary personal care and household tasks can be accomplished within 15 hours per week, any additional hours would only be used for supervision or companionship which is not an authorized use of the service. See N.J.A.C. 10:60-3.8(c). This would be contrary to the purpose of the PCA program, which is intended to provide medically necessary assistance with specific health related tasks.

THEREFORE, it is on this ^{9th} day of JANUARY 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED.


Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services