

(Op. at 9)

At the hearing, the ALJ heard the testimony of Petitioner and Rodney. The only documentary evidence submitted at the hearing was the September 13, 2019 notice from Amerigroup, a letter from Petitioner's physician, a 2017 reassessment of the MLTSS Plan of Care, and a 2018 and 2019 PCA Nursing Assessment Tool (PCA Tool). Rodney's testimony does little to explain the decrease in PCA services. Despite testimony that her inclination to give more time was limited only by the constraints of the PCA Tool, Rodney did not assess Petitioner's need anywhere near forty or sixty-two hours per week. Moreover, Rodney's PCA assessment was very similar to the 2018 assessment which called for eighteen hours of weekly PCA services given Petitioner's receipt of twenty-four hour daily private duty nursing (PDN) services. It is unclear from the record why the 2018 assessment was neither appealed by Petitioner nor effectuated by Amerigroup.

Similarly, Petitioner did not provide any evidence, aside from his own opinion, that he required more than seventeen weekly PCA hours in addition to twenty-four hours of daily PDN services. The letter provided by his physician is unsupported by any testimony, does not reference the PCA tool and only notes that he needs "62 hours per week." Other than to say that Petitioner requires two aides, it does not specify whether Petitioner requires PDN or PCA services. Nor does not state that Petitioner requires sixty-two hours per week in addition to twenty-four hours of PDN care, or if Petitioner requires sixty-two hours total.

While there is no requirement that Petitioner continue to receive the same amount of PCA services given in a prior assessment, the record here is too sparse to determine the accuracy of the August 2019 assessment. 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). The record also does nothing to support a finding that Petitioner has exceptional circumstances warranting sixty-two hours per week of PCA services, some of which are duplicative of those provided by his twenty-four hour daily private duty nurse. The fact that Petitioner has

received these services in the past is not, in and of itself, determinative of exceptional circumstance. In fact, without more evidence, the 2018 evaluation may undermine earlier assessments of Petitioner's circumstances.

I FIND that the record in this matter is too thin to support a determination in favor of either the Petitioner or Respondent.

THEREFORE, it is on this **14th** day of SEPTEMBER 2020,

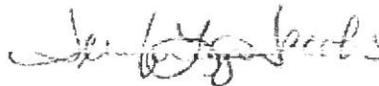
ORDERED:

That the Initial Decision is REVERSED; and

That the matter is RETURNED to Amerigroup to assess Petitioner's current condition to determine the present medical necessity for PCA services and issue a new determination notice with appeal rights.

IT IS FURTHER ORDERED:

That Amerigroup shall continue Petitioner's sixty-two hours of weekly PCA services pending the reassessment.



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