

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
APPEALS OFFICE

██████████
v.

Rhode Island Executive Office of
Health and Human Services

DOCKET No. 25-2824

I. INTRODUCTION

A telephonic hearing was held on the above-entitled matter on July 22, 2025, and reconvened on September 4, 2025. ██████████ (Appellant) initiated this matter to appeal a decision made by Neighborhood Health Plan of Rhode Island (NHPI) to reduce the Appellant's in home care hours as a result of a medically necessary review completed by NHPI. The Appellant is appealing the reduction of weekly in home care hours from 160 hours per week to 29 hours per week. The Appellant's Guardian argues the assessment is not accurate and the number of awarded hours is not sufficient to meet the Appellant's needs. For the reasons discussed in more detail below, the Appellant's appeal is denied.

II. JURISDICTION

The Executive Office of Health and Human Services (EOHHS) is authorized and designated by R.I.G.L. §42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2 to be the entity responsible for appeals and hearings related to human services. The administrative hearing was held in accordance with the Administrative Procedures Act (R.I.G.L. §42-35.1 et. seq.) and EOHHS regulation 210-RICR-10-05-2.

III. ISSUE

The issue is whether the Appellant's home care hours were properly reduced based on medical necessity in accordance with state regulations as set forth below.

IV. PARTIES AND EXHIBITS

Present for EOHHS was Amanda Graziosi (session two). Present for the NHP were [REDACTED], [REDACTED] (session one), [REDACTED], [REDACTED] (session one), [REDACTED], (session two), [REDACTED] (session two), and [REDACTED] (session two). [REDACTED] offered the following exhibits into evidence.

- Exhibit A - Prior Authorization Request dated May 14, 2025.
- Exhibit B - Utilization Review and Denial dated May 22, 2025.
- Exhibit C - Admission Assessment dated May 22, 2025.
- Exhibit D - NHP Coverage Criteria for Home Care Services. (CMP- #20).
- Exhibit E - Extended Home Health Aid Calculator (HHC).
- Exhibit F - Initial Notice of Adverse Determination and Appeal Rights – Full Denial dated May 22, 2025.
- Exhibit G - Member Initiated Internal Appeal Request dated June 20, 2025.
- Exhibit H - Appeals RN Review and MD Determination dated June 20, 2025.
- Exhibit I - Notice of Upheld Appeal and Appeal Rights dated June 20, 2025.
- Exhibit L - Post Hearing Brief dated July 25, 2025.

The Appellant was represented by his Guardian and Mother, [REDACTED]. She had two witnesses at session one, [REDACTED] and [REDACTED]. She offered the following into evidence.

- Exhibit J - Seven letters of support, which included a letter from [REDACTED] dated June 25, 2025; and one from, [REDACTED], dated July 19, 2025.
- Exhibit K - Rebuttal to NHP's post-hearing brief.

[REDACTED] objected to the admission of a letter from [REDACTED] as not relevant to the Appellant's appeal. This objection was noted, but the evidence was allowed in to evidence and given the appropriate weight.

V. RELEVANT LAW/REGULATIONS

According to State regulation 210-RICR-40-10-1.2(A)(15), Medicaid generally covers medically necessary services. This includes medical, surgical, or other services required for the prevention, diagnosis, cure, or treatment of a health-related condition.

LTSS provides a spectrum of services covered by the Medicaid program for persons with clinical and functional impairments and chronic illness or diseases that require the level of care typically provided in a health care institution. LTSS includes skilled or custodial nursing care facility care, therapeutic day services, personal care, and various home and community based services (HCBS). The scope of these services and supports and the choice of settings are determined by a comprehensive assessment of each person's unique care needs. 210-RICR-50-00-1.3(A)(14).

According to 210-RICR-50-00-1, specifically section §1.3(A)(20), "Needs-based criteria" is the basis for determining clinical/functional eligibility for Medicaid LTSS. The LTSS needs-based criteria encompasses medical, social, functional, behavioral factors and the availability of family support and financial resources. Per section §1.6(A)(2), the State uses needs-based criteria to determine the scope of services a beneficiary is qualified to receive. Medicaid LTSS coverage varies with a beneficiary's functional capacity, acuity needs, social environment, access to family, other third party support, and personal choices.

According to 210-RICR-40-10-1, specifically section §1.7.3, for Medicare/Medicaid Plans (MMP), Medicaid provides coverage through a Managed Care Organization such as NHP. See 210-RICR-40-10-1.7.8, entitled "Medicaid Managed Care Service Delivery Arrangements for MMP."

NHP established guidelines for what constitutes medically necessary for LTSS HCBS. According to NHP's Clinical Medical Policy #020 form (CMP- #20), the number of approved home care hours is based on medical necessity and is determined by an assessment done by NHP medical staff. Factors considered in the assessment are the member's height, weight, diagnosis, recent admissions,

continence of bowels, continence of bladder, mobility, level of assistance needed with Activities of Daily Living (ADL's), such as bathing, grooming, dressing and eating; as well as the level of assistance with Instrumental Activities of Daily Living (IADL's), such as housekeeping, laundry, the hours the primary caretaker is available, and the primary caretaker's ability to care for the member.

VI. FINDINGS OF FACT

- Based on a medical necessity review completed by NHP on May 22, 2025, NHP determined that the Appellant's LTSS HCBS weekly home care hours should be reduced from 160 to 29 hours weekly.
- The Appellant's Guardian filed for an Internal Appeal Request on June 20, 2025, to dispute the reduction in home care hours, stating that the Appellant "needs around the clock supervision for his safety".
- EOHHS- Medicaid agrees with NHP to reduce the Appellant's weekly home care hours to 29 hours.
- The Appellant was granted 15 hours of home care weekly from March 2015 through May 2018.
- There was a gap in service from May 2018 through July 2021.
- The Appellant resumed services in July 2021. They started with a new home care agency and requested 35 weekly hours. NHP granted that request, however, due to backlog resulting from COVID, it was done without a medical necessity review.
- Subsequent increases were requested and approved between December 2021 and January 2024. The final increase in January 2024 was granted at 160 weekly hours of home care, effective through April 2025. All of these increases were granted by NHP without having a medical necessity review completed.
- In April 2025, a request was made to NHP to continue home care for 160 hours. NHP did conduct a medical necessity review at that time and determined that the Appellant only met the criteria for 29 hours weekly for home care based on the HHC.

- The HHC used to calculate the 29 hours in July 2025 was the same version used in 2015 through 2017. Therefore, it was the same version used to calculate the initial 15 hours per week that was granted for March 2015 through May 2018. The HHC is designed to capture task based services, not general supervision for behavioral issues.
- During the period from July 2021 through April 2025, NHP was not conducting medical necessity reviews because of a case backlog. During the backlog period, all requests for an increase in home care hours were granted without review because NHP erred on the side of their members to ensure that they were able to get the care that they might need, rather than penalize the member because of staffing issues.
- Once the reviews started again, the assessment completed for the Appellant on May 21, 2025, revealed that the Appellant required only minimal assistance for ambulation, bathing, dressing, and eating; moderate assistance for toileting; is dependent for bathing and grooming, and is incontinent. Additionally, the Appellant was found to be a moderate risk for inpatient admissions, and in need of incidental homemaking services.
- The HHC total score was 17, qualifying him for 20 to 29 hours of home care weekly. NHP stated they approve the highest allowable hours in the calculated range. As such, the Appellant was granted 29 hours weekly.
- NHP obtained additional notes from the Appellant's home care agency, [REDACTED], because the newly calculated hours were not reflective of his current level of 160 home care hours. The additional information revealed that, in addition to assistance with ADL's and IADL's, the Appellant required "constant supervision and guidance...puts objects in his mouth that cause harm...needs reminders to stay calm".
- NHP clarified that supervision and guidance are not considered medically necessary services, therefore do not require a skilled medical professional such as a CNA.

- The Appellant sleeps eight hours nightly in a safe sleep bed, in which he is essentially “locked” in, so he is unable to elope. Additionally, he attends school for six hours Monday through Friday.
- Per the Guardian, the Appellant has a one-on-one when he is at school.
- The Appellant exhibits pica behaviors, therefore the family and the CNA do a “sweep” (visual searches) of the home frequently to ensure that he doesn’t ingest something harmful.
- The Appellant has an applied behavioral analysis (ABA) therapist six hours per week. The ABA works on decreasing his self-injurious behaviors, such as pinching himself, banging his head against the walls, and biting himself. Additionally, they work on decreasing episodes of elopement and disrobing. The Appellant is approved for more ABA hours than he is currently using due to staffing issues.

VII. DISCUSSION

The record was held open until 4:00 p.m. on July 25, 2025, for NHP to submit its post-hearing brief, which was received by the EOHHS Appeals Office on July 25, 2025. The Guardian had until July 30, 2025, to respond to NHP’s brief. She contacted the Appeals Office on July 30, 2025, stating she had additional evidence she wanted to submit. Due to the last minute submission, a reconvene was requested so a full discussion could take place.

The Appellant initially applied for CNA services in March 2015. A medical necessity review was completed using the State approved HHC, the assessment determined the Appellant was eligible for 15 hours of CNA services. He remained at 15 hours through May 2018. It was noted that in that 3-year time period, 20 hours was requested and denied when a medical necessity review determined the increase was not medically necessary.

Following a gap in services from May 2018 through July 2021, 4 requests were made and granted for increased hours with a new agency during the backlog period.

A medical necessity review was completed again in April 2025. When the Appellant requested a continuation of the 160 hours. The medical necessity review revealed the Appellant was eligible for 20-29 hours, NHP granted the maximum of 29 hours.

Home care services are meant to assist people with ADL's and IADL's and are meant to supplement the natural caregivers. 210-RICR-40-10-1.2(A)(15) clarifies that medically necessary services are utilized for medical or other services required for the prevention, diagnosis, cure, or treatment of a health related condition. By the very nature of the services provided, supervision and guidance do not require performance by a skilled practitioner. NHP testified that supervision to prevent possible injuries, possible elopement, and disrobing are not considered medically necessary.

The Guardian spent a significant amount of time discussing her concerns for her and her husband's mental health, the "burnout" that she experiences, and how the CNA hours serve to make caring for the Appellant "less of a burden". She argued that the Appellant requires more than 29 hours, stating on her appeal he needs 160 hours because the family can only assist so much with his home care. She testified several times that she and her husband are hands on all the time, they are more than capable, and they have kept him safe since the decrease in CNA hours. She testified the CNAs are helpful with grocery shopping and cooking due to difficulties when the Appellant is present. The CNAs sit with him in the back seat on the way to school, so he does not attempt to harm himself. When the Appellant goes to school, the CNA makes the bed and prepares the home for when the Appellant returned from school.

The Guardian argues NHP misrepresented that the Appellant needs are for supervision and guidance. That term, however, was repeatedly used during testimony as well as evidence from the providers, which NHP relied on to calculate the CNA hours needed. She further stated that having 160 hours a week supplements the care that they provide, however, 160 hours represents almost 23 hours per day, seven days a week.

The Guardian testified that prior to having 160 hours per week, the Appellant had between 60 and 80 hours of CNA services and was “definitely” granted more than 29 hours. This is not accurate. NHP testified that the Appellant was initially granted 15 hours, which stayed consistent for over three years. The continuations of 15 hours were based on medical necessity reviews. From 2015 to 2018 the Appellant requested an increase to 20 hours, but each time was denied due to medical necessity as calculated by the HHC. The subsequent increases were automatically granted without review due to the backlog.

In addition to CNA hours, the Appellant is also receiving six hours of ABA services, which focuses on teaching skills such as safety awareness and ADL skills. As noted above, he is eligible for more hours which are not currently provided due to staffing issues with the agency providing these services. He also is approved for 200 hours of respite services per year.

The owner of the home care agency, [REDACTED], testified they sent the Appellant’s plan of care to NHP, as well as notes from his pediatrician that outlined the Appellant’s needs. The pediatrician’s letter clearly states the Appellant “needs constant supervision and guidance.” These two services are not considered medically necessary per NHP’s Coverage Criteria for Home Care Services. NHP’s response is that the HHC captures task-based services, not general supervision, and that home care services are meant for members who are safe at home without services. [REDACTED] also stated when they took on the Appellant as a client, NHP deemed 160 hours to be necessary. The evidence shows, however, that the Appellant was granted 35 hours upon admission to his agency and they subsequently increased over time. Finally, he testified that they work closely with the family and know them well, however he was unaware that the Appellant sleeps in a safe sleep bed in which he cannot get out of, therefore he would not need care during those hours.

The majority of the evidence submitted by the Appellant were letters of support from service providers, however, they do not speak to the medical necessity of additional hours. While they do address the need for services for ADL’s, the Appellant’s pediatrician states, “he requires constant supervision to

prevent him from harming himself”, and the reduction in hours will “result in difficulties keeping him safe”. The Guardian’s primary physician states the reduction in hours “will negatively impact [REDACTED] health and her ability to follow up...with her care providers.” NHP testified, however, that medically necessary services “are not for the convenience of a member or a member’s doctor”. While it is clear that the Appellant and his family require assistance and support in some form, unfortunately, supervision, which is what is being requested, does not fall under the policy of medically necessary services such that additional home care hours are warranted.

IX. CONCLUSION OF LAW

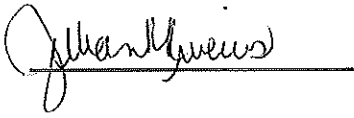
After careful review of the testimony and evidence presented at the Administrative Hearing, it is clear by a preponderance of evidence that:

1. NHP provides Medicaid LTSS HCBS home care hours for medically necessary services as outlined in the State of Rhode Island Medicaid regulations.
2. NHP used its State approved HHC to determine the number of Medicaid LTSS weekly home care hours.
3. Supervision and guidance are not considered medically necessary.
4. NHP correctly applied the “needs-based criteria” as outlined by State regulations to determine which LTSS services are medically necessary.

X. DECISION

Based on the foregoing findings of fact, conclusions of law, evidence, and testimony, it is found that a final order be entered that NHP correctly calculated the number of home-based care when it performed a medical necessity review.

APPEAL DENIED

A handwritten signature in cursive script, appearing to read "Jillian Rivers", is written over a solid horizontal line.

Jillian R. Rivers

Appeals Officer

NOTICE OF APPELLANT RIGHTS

This Final Order constitutes a final order of the Executive Office of Health and Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to

_____ and to his Authorized Representative _____

_____; copies were sent, via email, to the Appellant

_____, his Authorized Representative _____, EOHHS

Representatives John Neubauer and Amanda Graziosi, and NHPRI Representatives _____,

_____ on this 17th day of

October, 2025.

Rebecca Allen