

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

[REDACTED]

v.

Docket No. 26-1245

RI EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

**DECISION**

**I. INTRODUCTION**

A telephonic hearing on the above-entitled matter was held on March 31, 2026, and the Appellant declined the option of a video hearing. [REDACTED] (Appellant) initiated this matter to appeal a decision made by Neighborhood Health Plan of Rhode Island (NHP) to discontinue private duty skilled nursing services as a result of a medically necessary review completed by NHP. The Appellant's Guardian argues the assessment is not accurate and that the Appellant's needs have changed since the last review. 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 private duty skilled nursing services was properly discontinued based on medical necessity in accordance with state regulations as set forth below.

### IV. PARTIES AND EXHIBITS

Present for EOHHS was John Neubauer. Present for the NHP were Amy Coleman, Esq., Dr. Christopher Ottiano, Sabrina Haynes, and Catherine Daignault. Attorney Coleman offered the following exhibits into evidence.

- Exhibit A - Prior Authorization Request dated November 12, 2025.
- Exhibit B – Private duty skilled nursing notes.
- Exhibit C – Neighborhood's private duty skilled nursing policy.
- Exhibit D – InterQual review summary.
- Exhibit E – Initial Notice of Adverse determination letter dated November 19, 2025.
- Exhibit F – Appeal Acknowledgement letter dated December 16, 2025.
- Exhibit G – Notice of Upheld Appeal signed by Dr. Ottiano dated December 19, 2025.
- Exhibit H – External Appeal Request dated January 7, 2026.
- Exhibit I – The Associate medical director's notes dated December 18, 2025.

The Appellant was represented by her Guardian and Mother, [REDACTED]. She did not submit any documentary evidence.

### V. RELEVANT LAW/REGULATIONS

The standard of "medical necessity" is used as the basis for determining whether access to Medicaid-covered services is required and appropriate. A "medically necessary service" means medical, surgical or other services required for the prevention, diagnosis, cure, or treatment of a health-related condition including any such services that are necessary to prevent a detrimental change in either medical or mental health status or substance use disorder or services

needed to achieve age-appropriate growth and development or to attain, maintain, or regain functional capacity. 210-RICR-20-30-05-2.8(A)

Per Neighborhood Health Plan of RI Clinical Medical Policy #022, Private Duty Nursing is defined as individual and continuous skilled care provided by licensed nurses within the scope of state law and as identified in the members plan of care. Coverage is provided on a “per hour” or “per block hours” basis, not on basis of unique or intermittent visits. This service is intended for members who have complex medical conditions or disabilities which are being managed at home. The member's condition requires continuous skilled care greater than two hours per day that can only be conducted by a Registered Nurse or Licensed Practical Nurse according to practice standards. Private Duty Nursing is considered supportive to the care provided to a member by their caregiver in maintaining the member at home.

**VI. FINDINGS OF FACT**

- The Appellant is a seven-year-old child who was receiving 40 hours per week of private duty skilled nursing care. The Appellant had a feeding tube and seizure disorder.
- On November 12, 2025, a request was made by [REDACTED] to NHP to continue skilled nursing care for 40 hours a week. NHP conducted a medical necessity review at the time and denied the request because it did not show the Appellant required continuous skilled nursing care for more than two hours per day.
- According to the InterQual Review summary, a standardized medical review tool used to decide medical necessity, dated November 19, 2025, the Appellant scored 21 points based on the medical review Q & A. The Appellant’s score falls below the required score of 25 points to be determined eligible for Private Duty Nursing.

- On November 19, 2025, an initial Notice of Adverse Determination from NHP was sent to the Appellant advising the Appellant that her private duty nursing would be decreasing by 50% from November 21, 2025, through December 21, 2025, and then by another 50% from December 22, 2025, through January 22, 2026. The hours for skilled nursing would then decrease to zero hours starting January 23, 2026.
- The Appellant's Guardian filed an appeal on December 15, 2025, to dispute the discontinuation of skilled nursing care, stating that the Appellant needs a skilled nurse to administer medication when a seizure occurs.
- The NHP physician who completed the review reported that the Appellant had less seizure activity following a medication adjustment in July 2025 and had not had a seizure since September 21, 2025. Additionally, the Appellant was found to be tolerating oral feeding and had not required any respiratory treatments.
- A Notice of Upheld Appeal from NHP was sent to the Appellant on December 19, 2025. The Appellant filed an appeal with NHP regarding that decision on January 8, 2026. The appeal was referred out for an external appeal to Managed Medical Review Organization pursuant to 230-RICR-20-30-14.8.
- EOHHS Medicaid agrees with NHP's decision to discontinue private duty skilled nursing services.
- According to the Guardian, the Appellant started having seizures again. One in December that lasted more than 20 minutes and another in January that lasted about 13 minutes. She then had two more seizures in February. The Mother also reported that she was told by [REDACTED] that the CNA is not allowed to give medication and in the event the Appellant was to have a seizure the CNA is to call 911.

- Both the Guardian and NHP report that [REDACTED] has not submitted a new authorization request for skilled nursing services.

## VII. DISCUSSION

On November 12, 2025, NHP received a request from [REDACTED] to continue skilled nursing care at 40 hours a week. A medical necessity review was completed using the InterQual review summary. According to the assessment the Appellant scored 21 points. The Appellant's score falls below the required score of 25 points to establish that Private Duty Nursing is medically necessary. According to NHP, the reason the score fell below 25 was because of the decrease in the Appellant's seizure activity, as well as her increased ability to tolerate oral feedings. Therefore, the request was denied because it did not show a need for continuous skilled nursing care.

Medical necessity is used as the basis for determining whether access to Medicaid-covered services is required and appropriate. A "medically necessary service" means medical, or other services required for the prevention, diagnosis, cure, or treatment of a health-related condition including any such services that are necessary to prevent a detrimental change in either medical or mental health status or services needed to achieve age-appropriate growth and development or to attain, maintain, or regain functional capacity. 210-RICR-20-30-05-2.8(A)

The Guardian testified that the Appellant has begun experiencing seizures again. The Mother stated that she is not always available to provide care due to her work obligations. She stated that [REDACTED] informed her that their CNAs are not permitted to administer medications, particularly controlled substances. As a result, she is requesting private duty skilled nursing services. The Guardian expressed concern that if the Appellant were to have a seizure, the CNA would be unable to provide the necessary medication and would instead be required to

call 911. According to the NHP Policy, Private Duty Nursing is considered supportive to the care provided to a member by their caregiver in maintaining the member at home.

While the Guardian reports that the Appellant's condition has changed since NHP's last assessment, both the Guardian and NHP confirm that no new request for skilled nursing services have been submitted by [REDACTED], therefore the change in the Appellant's condition was not reported by the Guardian or [REDACTED] to NHP prior to this Appeal, and, therefore, cannot serve as the basis for this Appeal. NHP stated that the Guardian may reapply, at which time a new assessment would be completed to determine the need for more services.

#### **VIII. 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 used its state-approved InterQual Review summary to determine eligibility for private duty skilled nursing services based on a point system. Based on the Appellant's assessed needs and responses at the time of the review the Appellant did not meet the required 25 points to be found eligible.
2. Although there has been a reported change in the Appellant's condition, NHP has not received a new request for private duty nursing services from [REDACTED] to assess the Appellant's current needs.

#### **IX. 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 denied private duty skilled nursing services based on the Appellant's then medical history and progress at the time when they performed a medical necessity review.

**APPEAL DENIED**

*/s/ Vermont Richardson*

Appeals Officer

**NOTICE OF APPELLATE RIGHTS**

This decision is a final order under R.I.G.L. § 42-35-12. Under R.I.G.L. § 42-35-15, this Order may be appealed to court within thirty (30) days of the mailing of this decision. Such appeal, if taken, must be completed by filing a complaint in 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.

Appeals are generally filed in the Providence County Superior Court. However, appeals affecting or concerning children under the age of eighteen (18) and/or appeals of a DCYF action may need to be filed in Providence Family Court. If you have any questions about which court a complaint for appeal should be made, you should seek the advice of an attorney, Rhode Island Legal Services, or the clerk of the court where you wish to file your appeal. The courts' contact information can be found on the judiciary's website (<https://www.courts.ri.gov>). Copies of the appeal must be served upon all parties in your case within ten (10) days of the filing of your appeal.

If you exercise any of these appellate rights, please inform the EOHHS appeals office of this so we can prepare a copy of the record for the court. You can contact the Appeals Office at [OHHS.AppealsOffice@ohhs.ri.gov](mailto:OHHS.AppealsOffice@ohhs.ri.gov), 401.462.2132 (Phone), 401.462.0458 (Fax), or at 3 West Road, Virks Building, Cranston, RI 02908.

**CERTIFICATION**

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to Authorized Representative [REDACTED]; copies were sent, via email, to the Appellant's Authorized Representative at [REDACTED], EOHHS Representatives John Neubauer, Jane Morgan, Deborah Morales, Amanda Graziosi, and to NHPRI Representatives Doug Emmanuel, Esq., Amy Coleman, Esq., Mary Eldridge, and Robert Fine, Esq. on this 21<sup>st</sup> day of APRIL, 2026.

*Rebecca L. [Signature]*