

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

██████████)
)
 Petitioner,)
)
 vs.) Case No. 08-3442APD
)
 AGENCY FOR PERSONS WITH)
 DISABILITIES,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on March 4, 2009, by video teleconference with connecting sites in ██████████ Florida, before Errol H. Powell, an Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner:

██
██
██
██

For Respondent: Kiernan Patrick Moylan, Esquire
Office of the Attorney General
110 Southeast 6th Street, 10th Floor
Fort Lauderdale, Florida 33301

STATEMENT OF THE ISSUE

The issue for determination is whether Petitioner's request for the increase in hours of Personal Care Assistance Service

from the moderate level to the intensive level should be granted.

PRELIMINARY STATEMENT

██████ made a request for the increase in hours for Personal Care Assistance Service from the moderate level to the intensive level. By notice dated July 1, 2008, Maximus notified ██████ that the Agency for Persons with Disabilities (APD) contracted with Maximus to perform Prior Service Authorization (PSA) reviews; that Maximus reviews requests as to whether they meet the established service limitations/exclusions and whether the supporting documentation establishes medical necessity for each service requested; that Maximus had reviewed ██████'s request and determined that it failed to meet the criteria necessary to establish a medical necessity for an increase from the moderate level to the intensive level; and that the reasons for the denial were reflected on Form No. 5b, Determination of Reconsideration Review, attaching the said form. By letter dated July 8, 2008, ██████'s guardians contested the determination by Maximus and requested a hearing. On July 15, 2008, this matter was referred to the Division of Administrative Hearings.

After the instant case was originally scheduled for hearing several continuances were granted, among other grounds, to allow the parties to engage in discovery and to further review this

matter for settlement purposes. The instant case was eventually re-scheduled for final hearing.

At hearing, ██████ presented the testimony of three witnesses and entered 10 exhibits (Petitioner's Exhibits numbered 1-7 and 9-11) into evidence. APD objected to Petitioner's Exhibit numbered 8, which was deposition testimony, on the ground that the deponent failed to waive reading and signing of the deposition. The undersigned permitted ██████ to file, after the hearing, an affidavit of the deponent pertaining to whether the deponent waived reading and signing of the deposition. Subsequently, ██████ filed an affidavit by the deponent. By Order issued March 13, 2009, Petitioner's Exhibit numbered 8 was admitted into evidence; therefore, ██████ entered 11 exhibits (Petitioner's Exhibits numbered 1-11) into evidence.

At hearing, APD presented the testimony of one witness and entered 23 exhibits (Respondent's Exhibits numbered 1-23) into evidence.

A transcript was ordered. At the request of the parties, the time for filing post-hearing submissions was set for more than ten days following the filing of the transcript. The Transcript was filed on April 2, 2009. By Notice issued April 6, 2009, the parties were advised that their post-hearing submissions were due on or before May 4, 2009. ██████ timely filed a post-hearing submission. APD filed a post-hearing

submission, but it was not timely. [REDACTED] did not file an objection to APD's post-hearing submission. APD's post-hearing submission is accepted. The parties' post-hearing submissions have been considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. [REDACTED] is a [REDACTED] and, at the time of hearing, was 28 years of age. No dispute exists that [REDACTED] diagnoses include severe mental retardation, autism, epilepsy, hypothyroidism, gastrointestinal problems, and several other conditions.

2. Further, [REDACTED] suffers from gait instability, which requires physical assistance with [REDACTED] walking in order to prevent [REDACTED] from falling. Also, the physical assistance with walking helps to keep [REDACTED] from wandering off, which [REDACTED] is subject to do.

3. Additionally, [REDACTED] suffers from seizures for which [REDACTED] takes medication. [REDACTED] seizures involve a sudden loss of consciousness without warning. At the time of hearing, [REDACTED] had not suffered a substantial number of seizures. However, the taking of the medication could not guarantee that [REDACTED] seizures would not occur or return.

4. [REDACTED] is nonverbal. [REDACTED] attempts to communicate [REDACTED] basic needs through gestures and facial expressions. Also, [REDACTED]

makes nonsensical sounds and is unable to read or write.

█'s communication efforts are at an incoherent level.

5. █ resides at home with █ █
█ are █ guardians.

6. For the past 14 years, █ has received Adult Day Training (ADT) Services, Companion Services, Consumable Medical Supplies (CMS), Adult Dental Services, Respite Services, Support Coordination, and Personal Care Assistance (PCA).

7. █'s parents, █ ADT provider, and █ medical treatment providers are unable to understand █'s communication. At times, █'s mode of communication is showing or leading them to what █ wants or about what █ is attempting to communicate.

8. For eight of the 14 years, █ has received ADT at █ █ parents transport █ to and from █ █ attends █ from approximately 9:00 a.m. to approximately 3:00 p.m. █ receives training at █ toward the activities of self-care in a class of approximately 20 students and a staff ratio of usually one-to-two or one-to-three.

9. After eight years of ADT Services at █ █ has demonstrated very little progress. As to responding to █ name, █ usually requires several prompts, and at times varied prompts, before █ reacts. Regarding hand-washing,

██████ has demonstrated the ability to wash ██████ hands, after more than a year; however, ██████ continues to fail to understand when to wash ██████ hands and the effects of personal hygiene of hand-washing.

10. Regarding ██████'s activities of daily living (ADLs), ██████ requires direct assistance and supervision. ██████ is incapable of bathing and dressing ██████ and brushing ██████ teeth and hair. ██████ requires total assistance with ██████ bathing—undressing, helping ██████ into the shower, turning on the water, washing ██████ body, helping ██████ out of the shower, turning off the water, drying ██████ body, and putting on ██████ clothes. ██████ requires assistance brushing ██████ teeth and hair.

11. ██████ also needs total assistance with toileting. ██████ is incontinent and must wear adult diapers daily. ██████ lacks the capacity to independently undress, use the toilet, redress, or change the adult diapers. Moreover, ██████ is unable to understand how toileting affects ██████ hygiene and health.

12. Further, ██████ clothes are soiled nightly and ██████ lacks the capacity to remove the soiled clothes and dress ██████ with clean clothes. Also, the linen on ██████ bed is soiled nightly, and ██████ is unable to remove ██████ soiled linen nightly from ██████ bed.

13. ██████ requires total assistance with ██████ meals. ██████ meals must be prepared for ██████, and ██████ must be fed at intervals

to make sure that [REDACTED] eats. Also, currently, [REDACTED]'s food must be pureed to prevent choking.

14. [REDACTED] sleeps less during the night than previously. As a result, [REDACTED] requires more supervision time at night to ensure that [REDACTED] is safe.

15. [REDACTED] requires total assistance with the taking of [REDACTED] medications as prescribed by [REDACTED] treating physicians. [REDACTED] lacks the capacity to understand the importance of adhering to a schedule.

16. [REDACTED], M. D., provided expert medical testimony, by deposition. Dr. [REDACTED], a neurologist, treats [REDACTED] for [REDACTED] epilepsy. Dr. [REDACTED] testified that [REDACTED]'s seizures will never be completely controlled, even with medication; and that [REDACTED] requires 24-hour supervision to monitor the onset of loss consciousness due to [REDACTED] ([REDACTED]'s) epilepsy. Further, Dr. [REDACTED] testified that [REDACTED] lacks the capacity, with or without prompts to communicate any illness, condition, or problem, and lacks the capacity to take care of [REDACTED] ([REDACTED]'s) medical needs on [REDACTED] ([REDACTED]'s) own; and that [REDACTED] ([REDACTED] lacks the capacity to determine the correct dosage of prescribed medication to take, when to take the medication, and the manner for taking the medication. Also, Dr. [REDACTED] testified that [REDACTED] lacks the cognitive ability, with or without prompts, to take care of [REDACTED] ([REDACTED]'s) basic personal needs of bathing, grooming, personal

hygiene, and eating; and that [REDACTED] needs 24-hour supervision to ensure that [REDACTED] ([REDACTED] receives complete assistance with basic care needs because [REDACTED] [REDACTED] cognitive level is so low.

Dr. [REDACTED]'s testimony is found to be credible.

17. [REDACTED] also engages in self-stimulating destructive behaviors, such as hitting, scratching, or slapping [REDACTED]. These self-stimulating destructive behaviors cannot be curtailed with behavioral services.

18. [REDACTED]'s parents have provided PCA services to [REDACTED] for eight years. [REDACTED] requires both parents to perform PCA services seven days a week. [REDACTED]'s parents are paid to provide the PCA services to [REDACTED] and they hold no other employment.

19. Before requesting an increase to the intensive level, [REDACTED] was approved at the moderate level to receive and receives 240 hours of PCA Service per month, 60 hours per week, to completely cover all of [REDACTED] basic care needs.¹

20. Effective July 1, 2007, the Florida Legislature passed legislation capping the maximum hours for PCA Services at 180 hours per month, 45 hours per week, that an individual could receive at the moderate level.

21. [REDACTED] requested from APD an increase in PCA Services from the moderate level to the intensive level to keep [REDACTED] at the level of 240 hours per month, 60 hours per week. APD submitted [REDACTED] request to Maximus for a PSA review, and the

request was assigned PSA Number [REDACTED]. No dispute exists that Maximus' actions are those of APD. Maximus denied the request.

22. [REDACTED] requested a reconsideration of the determination made on PSA Number [REDACTED].

23. Maximus performed a reconsideration review on the determination of PSA Number [REDACTED]. Maximus determined that [REDACTED] failed to demonstrate a significant change in condition or circumstances threatening [REDACTED] health and safety and that [REDACTED] would remain at the moderate level for PCA Service, with the hours reduced to 180 hours to comply with the change in the law; and, therefore, denied [REDACTED]'s request for an increase to the intensive level. Maximus' rationale/comments, regarding the determination on reconsideration, included the following:

Reconsideration for Personal Care Assistance at an increase to the intensive level of support is requested in the amount of 3,840 quarter hours . . . The initial determination approved the moderate level of supports; however, the amount of quarter hours was reduced to be in compliance with the maximum of 720 quarter hour [sic] (180 hours) per month service limitation effective July 1, 2007. . . .

The information submitted for reconsideration at the intensive level of supports does not indicate a significant change in condition or circumstance . . . A previous Prior Services Authorization [REDACTED] denied the request for an intensive level of support and continued the previously approved moderate level of support because there was no documented significant change in condition or circumstance. Florida

Statutes 393.0661(3)(f)(9), effective July 1, 2007, states: "Clients who have a substantial change in circumstances which threatens their health and safety may be reassessed during this year in order to determine the necessity for a change in their support plan.[" There is no indication that [REDACTED] has experienced substantial change in circumstances which threatens [REDACTED] health and safety. . . .

24. By Final Notice dated July 1, 2008, Maximus notified [REDACTED] s parents of the denial.

25. [REDACTED] challenged the reconsideration determination on PSA Number [REDACTED] and requested a hearing. No dispute exists that the request for hearing was timely.

26. Maximus' reviewer for the reconsideration, Jane Siskind,² testified at hearing. At the time of hearing, she had been a reviewer for four years. Ms. Siskind reviewed the information submitted for reconsideration, pursuant to the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (Handbook) to determine medical necessity for the increase of the PCA Services from the moderate level to the intensive level.

27. Receiving PCA services at the intensive level requires total physical assistance which includes lifting and transferring in at least three of the basic personal care areas – eating, bathing, using the bathroom, grooming, and personal hygiene – due to physical, cognitive or behavioral

limitations. Receiving PCA services at the moderate level involves the individual routinely requiring prompts, supervision, and physical assistance, to include lifting and transferring, to complete the basic personal care areas of eating, bathing, grooming, using the bathroom (toileting), and personal hygiene.

28. Ms. Siskind testified that the information submitted demonstrated that ██████'s condition and circumstances failed to rise to the intensive level and failed to show a substantial change threatening ██████'s health and safety, and, therefore, failed to establish medical necessity for an increase from the moderate level to the intensive level for PCA Services. From the information submitted, Ms. Siskind determined, among other things, that ██████ was ambulatory, with self-stimulating behavior, and had the ability to follow some simple directions (with or without prompting). Ms. Siskind's testimony is found to be credible.

29. Further, Ms. Siskind testified that, during her four years' experience as a reviewer, a person fell within the intensive level when the person requires complete head-to-toe assistance, including physical lifting and transferring, and when the person usually cannot ambulate, requires feeding by hand or G-tube, requires a ventilator, and 24-hour care. Ms. Siskind's testimony is found to be credible only to the

extent to what she has experienced within the four years that she has been a reviewer but not as to what encompasses being at the intense level.

30. Ms. Siskind also testified that ██████'s 240 hours at the moderate level were reduced to comply with the change in the law. Her testimony is found to be credible.

31. Furthermore, in making her determination, Ms. Siskind took into consideration services that might be available to ██████ even though the services were not requested by ██████ or approved by Maximus.

32. The evidence demonstrates that the moderate level for PCA services at 240 hours per month is appropriate for ██████. Furthermore, the evidence demonstrates that there is no substantial change in ██████'s circumstances and conditions or a substantial change in ██████'s circumstances and conditions threatening ██████'s health and safety.

CONCLUSIONS OF LAW

33. The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and the parties thereto pursuant to Sections 120.569 and 120.57(1), Florida Statutes (2008).

34. These proceedings are de novo and are, therefore, not to determine whether the agency's decision was correct at the time that it made the decision, but to determine whether the

service of Personal Care Assistance at the intensive level requested by ██████ should be approved. § 120.57(1)(k), Fla. Stat. (2008).

35. The standard of proof is the preponderance of evidence. § 120.57(1)(j), Fla. Stat. (2008).

36. The general rule is that "the burden of proof, apart from statute, is on the party asserting the affirmative of an issue before an administrative tribunal." Florida Department of Transportation v. J. W. C. Company, Inc., 396 So. 2d 778, 788 (Fla. 1st DCA 1981). ██████ has the ultimate burden of proof by establishing through a preponderance of evidence that ██████ request for an increase from the moderate level to the intense level should be approved. See Wiggins v. Florida Department of Children and Families, 919 So. 2d 619 (Fla. 1st DCA 2006); J. W. C. Company, Inc., supra.; § 120.57(1)(j), Fla. Stat. (2008).

37. Section 393.065, Florida Statutes (2008), provides in pertinent part:

(1) Application for services shall be made in writing to the agency, in the area in which the applicant resides. . . .

* * *

(3) The agency shall notify each applicant, in writing, of its eligibility decision. Any applicant determined by the agency to be ineligible for developmental services has the right to appeal this decision pursuant to ss. 120.569 and 120.57.

38. Section 393.0651, Florida Statutes (2008), provides in pertinent part:

(8) Any client, or any parent of a minor client, or guardian, authorized guardian advocate, or client advocate for a client, who is substantially affected by the client's initial family or individual support plan, or the annual review thereof, shall have the right to file a notice to challenge the decision pursuant to ss. 120.569 and 120.57. . . .

39. Section 393.0661(3), Florida Statutes (2008), provides in pertinent part:

(f) The agency [APD] shall seek federal waivers and amend contracts as necessary to make changes to services defined in federal waiver programs administered by the agency [APD] as follows:

* * *

3. Personal care assistance services shall be limited to no more than 180 hours per calendar month and shall not include rate modifiers. Additional hours may be authorized for persons who have intensive physical, medical, or adaptive needs if such hours are essential for avoiding institutionalization.^[3]

* * *

9. Pending federal approval, the agency [APD] is authorized to extend current support plans for clients receiving services under Medicaid waivers for 1 year beginning July 1, 2007, or from the date approved, whichever is later. Clients who have a substantial change in circumstances which threatens their health and safety may be reassessed during this year in order to

determine the necessity for a change in their support plan.

40. No dispute exists that the Handbook is incorporated by reference in Florida Administrative Code Rule 59G-13.083 and is a rule.

41. The Handbook, effective June 23, 2005, on pages 2-4 and 2-5, provides in pertinent part:

Medical Necessity

Waiver services shall only be provided when the service or item is medically necessary. Chapter 59G-1.010(166) (a) (c) of the F.A.C. defines medical necessity as:

(a) "Medically necessary" or "medical necessity" means that medical or allied care, goods or services furnished or ordered must meet the following conditions:

Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain;

Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient needs;

Be consistent with generally accepted professional medical standards as defined by the Medicaid program and not be experimental or investigational;

Be reflective of the level of service that can safely be furnished, for which no equally effective and more conservative or less costly treatment is available statewide; and

Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.

(c) The fact that a provider has prescribed, recommended, or approved medical or allied care, goods or services does not, in itself, make such care, goods or services medically necessary, or a medical necessity, or a covered service.

Medical Necessity Determinations

An appropriate qualified professional shall make the determination that the standards for medical necessity set forth in 59G-1.010(166) (a) (c), F.A.C., are met, and that the requested item meets the service definition, as contained in the approved DD [Developmental Disabilities] waiver. When a requested service or item is determined to be medically necessary, it shall be approved. . . . If it is determined that the service is not medically necessary (i.e., the request does not conform to the standards set forth in 59G-1.010(166) (a), and (c), F.A.C., a written denial of the service . . . will be sent

Service Authorization Requirements

The services described in this handbook represent all approved services that may be purchased for a recipient participating in the DD waiver who needs the service to reach an outcome described on the support plan. . . . Providers of DD Waiver services are limited to the amount, duration and scope of the services described on the recipient's support plan and current approved cost plan.

Availability of Other Coverage Sources

Supports and services are developed and delivered in the natural community settings. Additionally, the supports and services authorized under the waiver should be used

to supplement the supports already provided by family, friends, neighbors, and the community. Replacement of such natural and free supports with government-funded services, including educational and vocational services, is contrary to the intent of the waiver program. State and federal funds are the means of last resort and only utilized when a family or community support is unavailable or while a support is being developed. . . .

42. Further, the Handbook, effective June 23, 2005, refers to Personal Care Assistance, on pages 2-57 through 2-60, and provides in pertinent part:

Description

Personal care assistance is a service that assists a recipient with eating and meal preparation, bathing, dressing, personal hygiene, and other self care activities of daily living. The service also includes activities such as assistance with meal preparation, bed making and vacuuming when these activities are essential to the health, safety and welfare of the recipient and when no one else is available to perform them. This service is provided on a one-on-one basis. Personal care assistance may not be used solely for supervision.

Limitations

Personal care assistance is limited to the amount, duration and scope of the services described in the recipient's support plan and current approved cost plan. . . .

Personal care assistance services shall be billed at the standard rate level for the service . . . The standard rate is paid when a recipient requires minimal support, through instructional prompts, cues, and supervision to properly complete the basic personal support areas of eating, bathing,

toileting, grooming and personal hygiene. .
. .

The need for an enhanced rate and the approved rate level shall be identified in the recipient's support and cost plan and on the authorization for service submitted to the provider by the recipient's support coordinator. Recipients with the following needs may require enhanced services:

Recipients who have a moderate level of support . . . may receive the rate level identified as moderate for the service. . . The moderate rate is paid when a recipient routinely requires prompts, supervision and physical assistance, to include lifting and transferring, to complete the basic personal care areas of eating, bathing, toileting, grooming, and personal hygiene.

Recipients who have an intense level of support . . . may receive the rate level identified as intense for the service. The intense rate is paid when a recipient requires total physical assistance, to include lifting and transferring, in at least three of the basic personal care areas identified above due to physical, cognitive or behavioral limitations.

A personal care worker with specific, identifiable skills over and above those identified in the qualifications for the service may be required in order to effectively provide the personal care assistance service. The personal care assistant meeting the specific skill requirement may bill at the approved rate level of standard, moderate or intense, and may also be authorized to receive a rate

modifier as specified in the published rate for the service. . . Key skills for which a modifier to one of the three rate levels may be approved include:

Recipients who have difficulty swallowing or eating, or who have multiple physical handicaps, or who have severe spasticity may require staff with skills in physical and nutritional management.

Recipients who exhibit intense problems with behavior and who have a written behavior service plan may require behavioral assistant services in place of personal care assistance to correctly and safely implement behavior service plans.

* * *

This service cannot be provided concurrently (at the same time) with NRSS [Non-Residential Support Services], companion services, ADT services, or in-home support services.

* * *

Place of Service

Personal care assistance shall be provided in the recipient's own home or family home or while the recipient who lives in one of those arrangements is engaged in a community activity. No service may be provided or received in the provider's home or in a hospital, ICF/DD or other institutional environment.

Special Considerations

Personal care assistance in the family home should be provided only to assist the parent or primary caregiver of children in meeting the personal care needs of the child.

Recipient's [sic] who live in their own home or adults that live in a family home may require personal care assistance to assist them with meeting their own personal care needs.

* * *

A relative is defined as someone other than a legally responsible family member, who is required to provide care for the recipient, such as a parent of a minor child or a family member who is also a plenary guardian of an adult. With regard to relatives providing this service, controls must be in place to make sure that the payment is made to the relative as a provider, only in return for specific services rendered, and there is adequate justification as to why the relative is the provider of care. An example of a viable reason may be lack of providers in a rural area.

Personal care assistance is monitored through the waiver support coordinator's contact with the recipient and provider. . . .

* * *

Personal care assistance providers are not reimbursed separately for transportation and travel cost. These costs are included in the rate.

43. The Handbook was amended with an effective date of July 2007. However, the Handbook, effective July 2007, was not incorporated by reference in Florida Administrative Code Rule 59G-13.083 until December 3, 2008. Therefore, the Handbook, with amendments effective July 2007, was not a rule until December 3, 2008, which was after Maximus made its determination

on reconsideration. Hence, the Handbook, effective July 2007, is not applicable to this instant case.

44. No dispute exists that the evidence demonstrates that [REDACTED] has a medical necessity for Personal Care Assistance Service.

45. In the instant case, the statutory provision controls over the rule, i.e., Section 393.0661(3)(f)3. and 9., Florida Statutes (2008), controls over the Handbook, effective June 23, 2005. As a result, APD is statutorily prohibited from approving more than 180 hours per month for PCA services; however, additional hours, beyond the 180 hours per month, may be approved, but only if [REDACTED] demonstrates that [REDACTED] has intensive physical, medical, or adaptive needs to the extent that such additional hours are essential for avoiding institutionalization or, if during the support plan year, a substantial change in circumstances which threatens [REDACTED] health and safety would justify a change in [REDACTED] support plan. §§ 393.0661(3)(f)3. and 9., Fla. Stat. (2008).

46. The evidence demonstrates that [REDACTED] has medical necessity for the moderate level of PCA services at 240 hours per month. However, only 180 hours per month of PCA services can be statutorily approved. Moreover, as to the approval of additional hours, the evidence fails to demonstrate that [REDACTED] has intensive physical, medical, or adaptive needs to the extent

that such additional hours are essential for avoiding institutionalization, or that, during the plan year there is a substantial change in [REDACTED] circumstances and conditions threatening [REDACTED] health and safety.

47. Hence, the evidence fails to demonstrate that [REDACTED] request meets the statutory requirement for additional hours beyond the 180 hours per month and fails to demonstrate an increase from the moderate level to the intense level.

48. Even if the burden was upon APD, the final outcome would be the same.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Agency for Persons with Disabilities enter a final order denying [REDACTED]'s request to increase Personal Care Assistance Service from the moderate level to the intensive level and approving 180 hours per month.

DONE AND ENTERED this 29th day of June, 2009, in
Tallahassee, Leon County, Florida.

S

ERROL H. POWELL
Administrative Law Judge
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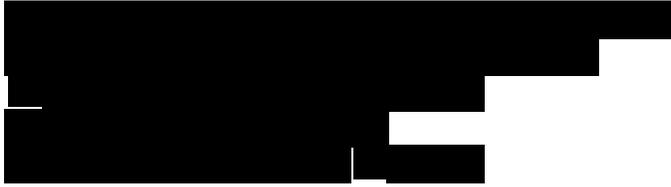
ENDNOTES

^{1/} By Recommended Order issued August 8, 2007, an administrative law judge found, among other things, that the moderate level of PCA services at 60 hours per week were medically necessary for [REDACTED] and recommended that [REDACTED]'s request for PCA service at the moderate level for 60 hours per week, which translates into 240 hours per month, be granted. The parties agree that APD entered a final order approving [REDACTED]'s request for PCA services at the moderate level for 60 hours per week.

^{2/} The Transcript contains a scrivener's error and erroneously identifies Jane Siskind as Jane Ciscon.

^{3/} The first sentence of the statutory provision was effective July 1, 2007. The last sentence of the statutory provision was effective October 26, 2007.

COPIES FURNISHED:



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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.