

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 18,362  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the number of hours allotted to him by The Department of Prevention, Assistance, Transition, and Health Access (PATH) for personal care services under the Medicaid program.

FINDINGS OF FACT

1. The petitioner is a fifteen-year-old boy who has a diagnosis of autism. He has been found eligible to receive personal care services under the Medicaid program. His status is reviewed every six months to determine if he still has a need for these services and at what level.

2. PATH reviews the status of eligible children by contracting with local community health service providers to interview the guardians of children with regard to their ability to perform daily living activities. The answers given by the guardians are recorded on a "functional assessment" form which breaks down the daily activities into sixteen categories. For each category there are descriptions of five

different levels of severity. Those levels are assigned points from "0", when there is no need for assistance, up to "4", when total assistance is necessary. There are spaces on the form to comment about each activity. The interviewer also fills out a "supplemental" form containing behavior and cognition information which uses the same sort of rating system for five different kinds of behavior containing four different levels of severity. The form also contains spaces in which to discuss the physical environment, other supports available and used, the care actually provided by the caretaker, impediments to the caretaker providing care and special circumstances. After the interviewer completes the form it is provided to the guardian for her (or his) review and signature.

3. The signed assessment form is forwarded to the Office of Vermont Health Access at PATH. PATH then counts up the number of points and compares them with the number on a severity chart it has developed to determine how many hours of service the child needs. The chart arranges children by age and provides that all of the answers for activities of daily living for children over ten are weighted by a factor of 1.5. This weighted number for activities of daily living is added to the number for behavior and cognition and compared to a

chart which contains the maximum number of hours a child can receive services based on the total points. The score sheet also contains a space to describe special circumstances which may impact on the number of hours provided.

4. This procedure was used to determine the petitioner's eligibility for services. The form in this case was filled out by a community health worker who has been involved in assisting the family. The form requested a total of 25 hours of assistance, the same which the family was receiving at the time. All but two of the activity ratings were answered the same as before. The two that were different rated the child as one point less severe than during the prior assessment. The second part of the form regarding other supports, environment, caretaker involvement and special circumstances was not filled out. The interview was done over the phone and sent to the petitioner's mother for her review and signature. The form was signed by the mother and then sent to PATH.

5. PATH counted up all of the numbers reported for the petitioner's daily activities and got a score of 14. Because the petitioner is over ten years of age, that number was multiplied by 1.5 for an ADL score of 21. The total score for behavior was determined to be 8. That number was added to the

21 for a total of 29 points. The chart developed by PATH showed that the maximum a child with 29 points can receive is 20 hours per week. On the prior assessment the child received 32 points which put him at the lower end of eligibility for 25 hours per week of service. PATH gave the petitioner the maximum number of hours for his score. The petitioner was notified of this reduction by a letter dated March 3, 2003 and was told it would be in effect for the next six months.

6. The petitioner's mother protests that the two improved scores were inaccurate and that the petitioner had actually not improved enough to move him to a different level of severity. She says that he still needs the same amount of caretaker services as before. She admits, however, that she agreed to this characterization of improvement and signed the form which lowered the level of severity. She has not filed a new assessment form upon which PATH could make a different decision.

ORDER

The decision of PATH is affirmed.

REASONS

PATH's Medicaid program provides for personal care services to an eligible child in order to allow him or her "to remain in his or her home/community, maintain their current health status and prevent, delay or minimize deterioration of their condition." M740.1. The petitioner in this case has been found to be eligible for these services. The regulations further provide that "[o]nce a recipient has been determined eligible for personal care services, the amount and duration of covered services will be determined based on the severity of the recipient's condition, the amount of family/caregiver support available and appropriate, and the array of other services the recipient may be receiving." M740.7.

PATH has adopted an assessment tool to determine the level of severity. The petitioner was provided with a copy of this assessment tool but has not argued that it is an unreasonable one. The score sheet shows that the tool is used in conjunction with other factors set forth in M740.7 to arrive at a final determination of the number of hours per week that a child will receive. The petitioner provided no information to PATH with regard to the other factors which PATH should consider (most of which would serve to reduce the number of hours). It appears that the petitioner has been

given the benefit of the doubt here and awarded the maximum number of hours for severity he could be given (absent some reported special circumstance) based on information provided by the mother herself.

As it appears that PATH has acted in accordance with its valid regulations and procedures, the Board is bound to uphold the result. 3 V.S.A. § 3091(d), Fair Hearing Rule 17. The petitioner was advised at hearing to submit a corrected assessment form if she feels she made a mistake earlier and submit it for further consideration by PATH. If she has not done so yet, she is encouraged to do so now.

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