



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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Governor

ELIZABETH CONNOLLY
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KIM GUADAGNO
Lt. Governor

VALERIE HARR
Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

L.N.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
GLOUCESTER COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 12799-2014

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the case file, the documents in evidence and the Initial Decision. Neither party filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is May 4, 2015, in accordance with an Order of Extension.

This matter concerns Petitioner's placement in a nursing facility. Petitioner had been residing in Gloucester Manor Nursing Facility. She is forty-five years old and has a cognitive deficit. While she did have a stroke and suffers from cardio-vascular disease and a seizure disorder, the Division of Developmental Disabilities (DDD) determined that she needs specialized services that cannot be provided in a nursing home. DDD found that the nursing home was a restricted placement and that services should be provided in a community placement. Petitioner, through her parents, appealed this decision.

Federal and state law sets up a gatekeeping process to prevent individuals from being inappropriately placed in nursing homes.¹ As part of the Omnibus Budget Reconciliation Act (OBRA) enacted in 1987, Congress developed the Preadmission Screening and Resident Review (PASRR) program to prevent inappropriate admission and retention of people with mental disabilities in nursing facilities. 42 U.S.C.A. § 1396r(b)(3)(F). PASRR requires that all applicants to Medicaid-certified nursing homes be assessed to identify individuals whose needs require that they receive additional services for their intellectual disability or serious mental illness. Those individuals who "test positive" at Level I are then evaluated in depth to confirm the determination of MI/ID for PASRR purposes, and the "Level II" assessment produces a set of recommendations for necessary services that are meant to form the individual's plan of care. See 42 C.F.R. § 483.100 et seq. and N.J.A.C. 8:85-1.8.

Petitioner did test positive at the Level I PASRR. As a result she was screened

¹ Inappropriate placement in a nursing home causes residents "to become dependent on that facility, experiencing depletion of their financial resources and erosion of their social contacts in the community." N.J.A.C. 30:4D-17.10.b

for a Level II PASRR which is required to determine the need for specialized services.
42 C.F.R. § 483.100 et seq.

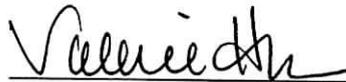
That assessment determined that Petitioner, at 45 years old, would benefit from specialized services that cannot be provided in a nursing facility. As such, Petitioner is not permitted to reside in a nursing facility and was denied clinical eligibility.

The ALJ in upholding the denial of clinical eligibility noted that Petitioner's parents are concerned about her placement and have done a commendable job in caring for her. However, there is no basis to find Petitioner clinically eligible for Medicaid benefits. Thus, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this *23rd* day of MARCH 2015,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Valerie J. Harr, Director
Division of Medical Assistance
and Health Services