

Prior to that she resided with her family. In June 2017, Petitioner's guardian placed her in a nursing facility where the guardian also worked. That admission caused Petitioner to be evaluated under the Preadmission Screening and Resident Review (PASRR) regulations. The evaluation done by a DDD nurse found that Petitioner was in need of specialized services and did not have any skilled nursing or rehabilitative needs that prevented her from returning to a group home. Petitioner is seeking to remain at the nursing facility with Medicaid as the payor.

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 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 was determined to be in need of nursing home level services. However, Petitioner did test positive at the Level I PASRR. As a result she was screened for a Level II PASRR by DDD which is required to determine the need for specialized services. 42 C.F.R. § 483.100 et seq. That assessment determined that Petitioner would benefit from specialized services, which cannot be provided in a nursing facility. As such, Petitioner is not permitted to reside in a nursing facility under Medicaid.

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.S.A. 30:4D-17.10.b

The Initial Decision adopts the PASRR determination that Petitioner is in need of specialized services to be provided in a community setting. As noted in the record, Petitioner's guardian placed her in the nursing facility after becoming unhappy with the community placement where she had been for four years. ID at 17. However, Petitioner's guardian did not address this discontent with DDD nor did she seek other community-based options. Rather, she moved Petitioner to a nursing home so as to remove her from the DDD day program she had attended for four years.

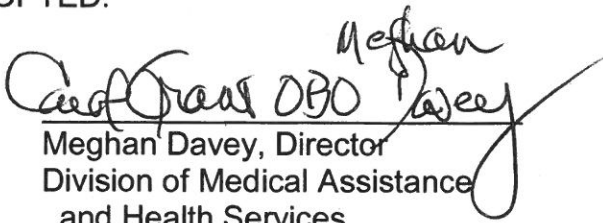
The arguments contained in Petitioner's July 6, 2018 exceptions do not point specifically to any error by the ALJ. Rather she has styled her June 11, 2018 written summation nearly verbatim as exceptions to the Initial Decision. That submission was considered by the ALJ and even cited in the decision See ID at 16. The Initial Decision notes that the impediment to finding another placement for Petitioner is her guardian's refusal to address issues and concerns with DDD. Petitioner's guardian needs to work with DDD to ensure that an appropriate community placement and services are found. Such cooperation is required by the federal rules at 42 CFR § 483.440(c) (2).

Thus, for the reasons set forth above and by the ALJ, I hereby ADOPT the Initial Decision finding that the PASRR determination was correct. DDD should outreach Petitioner's guardian to discuss placement and services for Petitioner.

THEREFORE, it is on this ^{25th} day of SEPTEMBER 2018,

ORDERED:

That the Initial Decision is hereby ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services