

Managed Long-Term Services and Supports program, pursuant to N.J.A.C. 8:85-2.1; and (2) Essex County Department of Citizen Services's (Essex County) March 13, 2020 denial of Petitioner's application for Medicaid benefits under the Aged, Blind, and Disabled (ABD) program, as Petitioner's income was over the income limit to qualify for benefits.

Petitioner was assessed by the Office of Community Choice Options (OCCO) on October 17, 2019 at the assisted living facility where she resided. R-6. She had no cognitive deficits. Ibid. The facility's records confirmed that Petitioner's cognitive status was intact, including her decision-making, short-term memory, and procedural recall. ID at 6. While she uses a walker and fell in the thirty days prior to the assessment, Petitioner insisted, at the assessment, that she could perform all of her activities of daily living (ADLs) without assistance. R-7. The facility's records confirmed that Petitioner was independent in all tasks, aside from bathing, where she needed only supervision. ID at 6. She was, however, dependent on her Instrumental Activities of Daily Living (IADLs), as the staff of her nursing facility performed housework, meal preparation, laundry, and medication management for Petitioner. Id. at 4.

In order to receive Long-Term Care Services, Petitioner had to be found clinically eligible. The mechanism for this is a pre-admission screening (PAS) that is completed by "professional staff designated by the Department, based on a comprehensive needs assessment which demonstrates that the recipient requires, at a minimum, the basic nursing facility services described in N.J.A.C. 8:85-2.2." N.J.A.C. 8:85-2.1(a); See also, N.J.S.A. 30:4D-17.10, et seq. Individuals found clinically eligible "may have unstable medical, emotional/behavioral and psychosocial conditions that require ongoing nursing assessment, intervention and/or referrals to other disciplines for evaluation and appropriate treatment. Typically, adult nursing facility residents have severely impaired cognitive and related problems with memory deficits and problem solving. These deficits severely compromise personal safety and, therefore, require a structured therapeutic environment. Nursing facility

residents are dependent in several activities of daily living (bathing, dressing, toilet use, transfer, locomotion, bed mobility, and eating).” N.J.A.C. 8:85-2.1(a)1.

Here, Petitioner was assessed by an OCCO nurse and it was determined that she did not meet nursing home level of care, as she did not need hands-on assistance in any ADLs, and at most, needed supervision in the area of bathing. She additionally was found to not suffer from any cognitive deficits. While Petitioner testified at the hearing in this matter that she did require hands-on assistance with her ADLs and her doctor at the facility also testified that Petitioner suffered from cognitive deficits and needed assistance in her ADLs, their testimony is contradicted by the contemporaneous documentary evidence in the record and statements made by Petitioner at the time of the assessment in October 2019. Accordingly, the Initial Decision appropriately affirmed the denial of benefits based on OCCO’s assessment, the clinician’s observation, the facility’s care records, and Petitioner’s statements at the time of the assessment, finding that Petitioner did not meet the clinical criteria for nursing facility-level services when she applied for benefits in October 2019.

Petitioner’s income in 2019 consisted of monthly Social Security payments in the amount of \$1,919.50. ID at 9. Petitioner’s income in 2020 consisted of monthly Social Security payments in the amount of \$1,949.60. Ibid. The income limit to qualify for benefits was \$1,041 in 2019 and \$1,064 in 2020. See Medicaid Communication 19-13 at https://www.state.nj.us/humanservices/dmahs/info/resources/medicaid/2019/19-03_Income_Eligibility_Standards_Effective_1-1-19.pdf; and Medicaid Communication 20-02 at https://www.state.nj.us/humanservices/dmahs/info/resources/medicaid/2020/20-02_2020_Income_Eligibility_Standards_Effective_1-1-2020.pdf. There is nothing in the record to show that Petitioner disputes the calculation of her income in either 2019 or 2020. Her income for both years was over the income limit to qualify for benefits. Accordingly, the Initial Decision appropriately affirmed Essex County’s denial of Petitioner’s application, as Petitioner’s income exceeded the income limit to qualify for benefits.

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision in this matter.

THEREFORE, it is on this 20th day of July 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance and Health Services