



PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
Division of Medical Assistance and Health Services
P.O. Box 712
Trenton, NJ 08625-0712

SARAH ADELMAN
Commissioner

GREGORY WOODS
Assistant Commissioner

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

B.L.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OFFICE OF COMMUNITY CHOICE

OPTIONS,

RESPONDENT.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT.NO. HMA 07115-2024

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 31, 2024, in accordance with an Order of Extension.

The matter arises from the New Jersey Office of Community Choice Options (OCCO) March 27, 2024 denial of clinical eligibility for Nursing Facility Level of Care under N.J.A.C. 8:85-2.1. Petitioner was assessed on March 26, 2024 by Shray Williams, RN, RSN, (Williams) to determine their eligibility for nursing facility level of care. ID at 2.

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 New Jersey Is An Equal Opportunity Employer • Printed on Recycled Paper and Recyclable

"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.

Valerie Hilder, RN, (Hider), Fair Hearing Liaison Supervisor testified on behalf of the OCCO. Hider testified that on the date of the assessment, the Petitioner was able to report their birth date and social security number, was able to explain their daily routine, reported that they were independent in their daily decision-making and routine, their memory was reported as intact with no memory deficits (remembered three words given to them), and there were no procedural or situational memory deficits that Williams was able to illicit. ID at 3. Hider further stated that it was reported by Williams that the Petitioner understood and expressed themselves without difficulty, and that the Petitioner reported that they were independent with all activities of daily living (ADLs), which was verified with a licensed practical nurse and with Mary Ann Barbato, RN, the Director of Nursing (Barbato). Ibid. Barbato reported to Williams that B.L. had some incidents of soiling themselves, but they were able to clean himself and only required assistance with cleaning the floor. Ibid.

The Petitioner was determined not clinically eligible for Nursing Facility Level of Care in a nursing facility or the community pursuant to N.J.A.C. 8:85-2.1, the NJ FamilyCare Comprehensive Demonstration, Section 1115, and the OCCO NJ Choice Assessment completed by Williams on March 26, 2024. Ibid. Clinical eligibility was specifically denied because the Petitioner does not require assistance with three ADLs. Ibid.

Here, Petitioner was assessed by an OCCO nurse and it was determined that they did not meet nursing home level of care, as they did not need hands-on assistance in any activities of daily living (ADLs), and were found to not suffer from any cognitive deficits. Id. at 8. In the Initial Decision the Administrative Law Judge (ALJ) found that while the Petitioner suffers from anxiety and nervousness, their short and long-term memories are intact and they are capable of independently performing all of their ADLs. The ALJ found that the credible evidence in the record indicated that the Petitioner did not meet the clinical eligibility criteria to qualify for nursing facility level of care, and that the Petitioner failed to present any evidence to contradict this determination. Ibid. I agree with the Initial Decision. While the Petitioner suffers from anxiety and nervousness, their short and long-term memories are intact and they are capable of independently performing all of their ADLs. Ibid.

Thus, for the reasons stated above, I FIND that Petitioner was properly denied clinical eligibility by the OCCO's assessment. The record does not contain any evidence that contradicts the March 26, 2024 assessment. The Petitioner does not need hands-on assistance in any ADLs, and does not suffer from any cognitive deficits. Accordingly, the Initial Decision appropriately affirmed the denial of benefits based on OCCO's assessment, finding that Petitioner did not meet the clinical criteria for nursing facility-level services.

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 25th day of October 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services