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

B.T.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 01696-24
AND HEALTH SERVICES AND	:	
OFFICE OF COMMUNITY CHOICE	:	
OPTIONS,	:	
	:	
RESPONDENTS.	:	

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 15, 2024, in accordance with an Order of Extension.

This matter arises from the Division of Aging Services' (DoAs) January 18, 2024 denial of clinical eligibility under N.J.A.C. 8:85-2.1. (R-5). Petitioner was receiving

Managed Long-Term Services and Support (MLTSS) since November 2019 at a long term care facility. ID at 2. Due to the pandemic, the Office of Community Choice Options (OCCO) could not complete a clinical eligibility assessment until April 2023, and Petitioner remained in the facility through continuing Medicaid benefits. ID at 2-3. On January 18, 2024, an assessment was conducted by registered nurse, C.B., at the facility where Petitioner resided. ID at 3. As a result, OCCO determined that Petitioner was ineligible for nursing home level of care finding that Petitioner had a partial deficit in their short-term memory and is not dependent on physical assistance with three or more Activities of Daily Living (ADL). The Initial Decision upheld the denial as the Administrative Law Judge (ALJ) found that Petitioner had not established that Petitioner satisfied the clinical criteria for Medicaid. I agree with the ALJ's findings.

In order to receive Long-Term Care Services, Petitioner had to be found clinically eligible. The mechanism for determining clinical eligibility 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 NF (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 NF 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.

NF 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.

Further, pursuant to NJ FamilyCare Comprehensive Demonstration, Section 1115 adult (ages twenty-one and older) individuals must be clinically eligible for MLTSS services when the individuals’ standardized assessment demonstrates that the individuals satisfied any one or more of the following three criteria:

a. The individuals:

- i. Requires limited assistance or greater with three or more activities of daily living;
- ii. Exhibits problems with short-term memory and is minimally impaired or greater with decision making abilities and requires supervision or greater with three or more activities of daily living;
- iii. Is minimally impaired or greater with decision making and, in making himself or herself understood, is often understood or greater and requires supervision or greater with three or more activities of daily living.¹

Here, the nursing assessment noted that Petitioner was independent in eating, personal hygiene, bathing, dressing lower and upper body, ambulating and toileting. (R-5). The assessment also stated that Petitioner was alert, oriented, and was noted to have short-term memory problems, which was made evident when Petitioner could only recall two of the three unrelated items posed to Petitioner, within a five-minute period. Ibid. There was no procedural or situational memory issues as Petitioner was able to recite steps and what to do in case of a fire. Ibid.

M.G., director of admissions at Sterling Manor, testified that she disagreed with the

¹ New Jersey FamilyCare Comprehensive Demonstration Approval Period: April 1, 2023 through June 30, 2028.

decision as Petitioner is diagnosed with schizophrenia, impulsive disorder, autism, and severe sexual preoccupation. ID at 4. She testified that Petitioner needs prompting and supervision because when Petitioner is upset, they have violent outbursts. Ibid. At times Petitioner hits their head against the wall and needs prompting to take medication, dress, and bathe. Ibid. K.C., who is a Community Advocate and Investigator with the Long-Term Care Ombudsman Office, testified that based on her observation Petitioner has poor impulse control, and when Petitioner is upset, they need to be redirected. She also testified that Petitioner dresses inappropriately and needs supervision with taking medication. Ibid.

The Initial Decision held that Petitioner has a partial cognitive defect with their short-term memory, can independently dress, toilet and eat, can get in and out of bed without assistance, ambulates independently, and can shower without assistance but needs prompting. ID at 6. The ALJ stated that pursuant to N.J.A.C. 8:85-2.1, Petitioner does not fall within any of the criteria which are required for clinical eligibility for nursing home level of care and therefore fails to meet the criteria for nursing facility level of care. Ibid.

I concur with the ALJ's determination that according to the evidence presented, Petitioner does not meet the clinical criteria for Medicaid as outlined in N.J.A.C. 8:85-2.1 or the New Jersey FamilyCare Comprehensive Demonstration. Petitioner demonstrates the ability to independently perform their ADLs and only has a partial cognitive defect with their short-term memory.

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 15th day of AUGUST 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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