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Assistant Commissioner

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

C.Z.,

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 02736-2024

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 August 22, 2024, in accordance with an Order of Extension.

The matter arises from the New Jersey Office of Community Choice Options (OCCO) January 17, 2024 denial of clinical eligibility for Nursing Facility Level of Care under N.J.A.C. 8:85-2.1. Petitioner was assessed on January 17, 2024 by Jill Coughlan, RN/RSN, Community Choice Counselor for OCCO to determine their eligibility for nursing facility level of care. ID at 2. Nurse Coughlan advised the Petitioner that they were not clinically eligible for Nursing Facility Level of Care, in a facility or in the community, by

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letter dated January 17, 2024. Petitioner filed a fair hearing request, and a hearing was conducted by the OAL on May 13, 2024. Ibid.

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 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 2. At the time of the assessment, Nurse Coughlan noted that Petitioner was alert, oriented and did not have any short-term memory loss or cognitive deficits. Ibid. Nurse Coughlan also noted that the Petitioner was independent in meal preparation, managing their medication, dressing, toileting, and could transfer from their chair and bed without assistance. Ibid. Nurse Coughlan also observed the Petitioner walk unassisted with an unsteady gait due to a lower left leg prosthesis. Ibid. at 2-3. The Petitioner is amputated

below the knee and used a cane and wheelchair, as needed. Ibid. at 3. Nurse Coughlan also noted that that the Petitioner requires full assistance for transportation outside their apartment and requires limited assistance to take a bath or shower. Ibid. Based on the January 17, 2024 assessment, the OCCO determined that the Petitioner did not meet the level of care required for eligibility. Ibid. At the Fair Hearing, the Petitioner testified that they did not dispute the scoring on the assessment, but was concerned about losing transportation services. Ibid.

In the Initial Decision the Administrative Law Judge (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. Id. at 4. I agree with the Initial Decision. The Petitioner lives independently, and at the time of the assessment, did not dispute that they were independent in eating, showering, dressing, toilet use, bed mobility, and ambulation within their apartment. Id. at 3. Furthermore, the Petitioner did not appear to be suffering from any cognitive deficits during the assessment or at the hearing. Ibid.

The ALJ also stated that even though the Petitioner did not qualify for nursing facility-level services as of the date of the assessment, they should explore other assistance options, as explained by the OCCO, such as transportation services and light housekeeping, and if their condition changes, should request a reassessment. Id. at 4.

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 January 17, 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 15th day of August 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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