



Long-Term Services and Support (MLTSS) since the end of November or beginning of December 2021 at a long term care facility. ID at 1. On January 31, 2024, a New Jersey Choice Assessment was conducted by registered nurse, S.W., at the facility where Petitioner resided. (R-5). As a result, OCCO determined that Petitioner was ineligible for nursing home level of care finding that Petitioner was not cognitively impaired or dependent on physical assistance with three or more Activities of Daily Living (ADL). Ibid. The Initial Decision upheld the denial as the Administrative Law Judge (ALJ) found that Petitioner is no longer clinically entitled to nursing facility services. 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.<sup>1</sup>

Here, the nursing assessment noted that Petitioner performed all ADLs independently including the following: feeding, bathing, dressing upper body, dressing lower body, toilet transfers, toilet use, bed mobility and transfers, and locomotion. (R-5). The assessment found that Petitioner demonstrated no obvious cognitive problems and was able to recall the date, month and day, and answered all questions without cueing or prompting. ID at 4. Petitioner independently makes their doctor and transportation appointments. (R-5). Petitioner has not experienced any falls, emergency-room visits or hospitalizations. Ibid.

In response to the OCCO's determination, Petitioner asserted that Petitioner did not want to leave the NF until Petitioner's physical condition is improved. ID at 5. Petitioner reported trouble with their feet and stated their intention to have their feet removed to assist with walking with prosthetics. ID at 5. Petitioner testified that they are a tier three registered

---

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

sex offender and they have nowhere to go if discharged from the facility. Ibid. Petitioner acknowledged that the facility's social worker attempted to discuss housing with Petitioner but no progress has been made. Ibid.

The Initial Decision held that Petitioner is not severely cognitively impaired or dependent on physical assistance with three or more ADL's. ID at 6. It goes on to state that Petitioner is understandably nervous about transitioning back into the community, however, Petitioner has the ability to do so. Ibid. The ALJ concludes that Petitioner is not entitled to NF services because Petitioner does not meet the clinical criteria for Medicaid-NF by a preponderance of the evidence. 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 has no cognitive impairments. While Petitioner may have other medical conditions related to the issue with their feet, nursing facility care through MLTSS is not appropriate unless this condition meets the clinical level of eligibility.

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 6th day of NOVEMBER 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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