



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

F.C.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OFFICE OF COMMUNITY

CHOICE OPTIONS,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 04112-24

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence, and the Initial Decision in this matter. Neither Party filed exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is September 4, 2024, in accordance with an Order of Extension.

This matter arises from the Office of Community Choice Options' (OCCO) February 27, 2024, termination of Petitioner's Managed Long Term Services and Supports (MLTSS) program for failing to meet clinical eligibility. The issue presented here is whether the termination was appropriate under N.J.A.C. 8:85-2.1.

Eligibility for nursing facility (NF) services will be determined by the professional staff designated by the Department, based on a comprehensive needs assessment that demonstrates that the beneficiary requires, at a minimum, the basic NF services. Individuals requiring NF services 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 (ADL), like bathing, dressing, toilet use, transfer, locomotion, bed mobility, and eating. N.J.A.C. 8:85-2.1 (a)

A NF must conduct a comprehensive, accurate, standardized, reproducible assessment that describes the resident's capability to perform daily life functions and significant impairments in functional capacity. Each such assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered professional nurse who signs and certifies the completion of the assessment. Such an assessment must be conducted promptly after a significant change in the resident's physical or mental condition, and in no case less often than once every 12 months. The NF must examine each resident no less frequently than once every 3 months and, as appropriate, revise the resident's assessment to ensure the continuing accuracy of the assessment. 42 USC §1396 r.

On March 25, 2022, Petitioner had a brain injury as a result of chronic seizures. ID at 2. The uncontrolled seizures and the brain injury required Petitioner to receive assistance with activities of daily living (ADL). Ibid. Petitioner was admitted to Preferred Home Healthcare, NF. Ibid. After spending two years at the NF, Petitioner has regained his independence, and the seizures were controlled with medication. Ibid. On February 27, 2024, Madonna Hill, a registered nurse from the DMAHS, assessed and determined that Petitioner no longer needed assistance with ADL. (R-5.) As a result, OCCO found the Petitioner clinically ineligible for the MLTSS program. (R-6.) On March 27, 2024, Petitioner's representative, Jenna McFarland, from Preferred Home Healthcare, appealed OCCO's termination determination.

During the hearing, Hill testified that she assessed Petitioner's abilities to perform ADL without assistance on February 27, 2024. (R-5.) Ibid. Hill watched Petitioner ambulating around the facility in their wheelchair using their feet and arms. Ibid. Hill observed that Petitioner did not need assistance transitioning from the wheelchair to their bed. Ibid. Petitioner has all their cognitive abilities and their psychological status shows no signs of abnormality. Ibid. Hill contacted Petitioner's caregivers to make sure that what she had observed was consistent for Petitioner. Ibid.

Petitioner also testified that they don't require assistance with ADL, agreeing with Hill's assessment. ID at 3. Petitioner admitted that that they were having trouble with stairs, but they can make their lunch, take their medication, take showers, and brush their teeth without assistance. Ibid. Petitioner stated that walking is somewhat difficult but they walk often in the facility and they were looking forward to returning to their home and rejoining the workplace. Ibid.

The Administrative Law Judge (ALJ) found that Petitioner demonstrated to Hill, as well as during their testimony, that they do not have any memory impairment or impaired

decision making. ID at 3. The ALJ further found that Petitioner demonstrated to Hill that they could perform their ADL without being dependent on others. Ibid. The ALJ concluded that since Petitioner does not need assistance with any ADL, Petitioner is clinically ineligible to remain in NF under the MLTSS program. ID at 3-4.

OCCO followed the state and federal regulations when they found Petitioner clinically ineligible for the MLTSS program. Petitioner needed assistance with ADL because of uncontrolled seizures and brain injury. Petitioner's health has improved enough that they no longer need ADL assistance. Petitioner's seizures are under control; the effects of the brain injury have resolved. Petitioner can perform their ADL without being dependent on others.

Based on the record before me, I hereby ADOPT the Initial Decision in its entirety and incorporate the same herein by reference. OCCO's determination that Petitioner is not clinically eligible for the MLTSS program under N.J.A.C. 8:85-2.1 was appropriate.

Thus, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this 3rd day of SEPTMEBER 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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