

Managed Long-Term Services and Support (MLTSS) since April 21, 2021, at a long term care facility. (R-9). On July 23, 2024, a New Jersey Choice Assessment was conducted by registered nurse, Candice Lumax, R.N., at the facility where Petitioner resided. 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). (R-6). The Initial Decision upheld the denial as the ALJ found that Petitioner had not established, by a preponderance of the evidence, 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 [nursing facility] NF 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 performed all ADLs independently including eating, dressing, toilet use, transfers, and locomotion. Petitioner's medical chart indicates a requirement for set up assistance with bathing but that no physical assistance or supervision was required. (R-6, R-9). While Petitioner was noted to have a prosthetic leg, Petitioner was ambulatory and able to walk independently. Further, Petitioner had no cognitive defects and was noted to understand others, and have clear communication, despite having a fluency disorder. Specifically, the assessment found that Petitioner's procedural, situational, and short term memory were intact. Petitioner reported being independent in daily decision making. (R-6).

I concur with the ALJ's determination that according to the evidence presented,

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

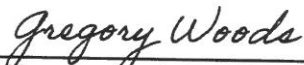
Petitioner does not meet the clinical criteria for Medicaid as outlined in N.J.A.C. 8:85-2.1 or the New Jersey FamilyCare Comprehensive Demonstration. Petitioner demonstrates the ability to independently perform their ADLs and had no cognitive impairments.

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 23rd day of DECEMBER 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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