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**DEPARTMENT OF HUMAN SERVICES**  
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Assistant Commissioner

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

T.J.,

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 03436-24

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 9, 2024 denial of clinical eligibility under N.J.A.C. 8:85-2.1. (R-6). Petitioner was receiving

Managed Long-Term Services and Support (MLTSS) since April 2020 at a long term care facility. On January 3, 2024, a New Jersey Choice Assessment was conducted by registered nurse, K.G., 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). 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.<sup>1</sup>

Here, the nursing assessment noted that Petitioner performed all ADLS independently including the following: feeding, dressing, bathing, attending to personal hygiene and toileting, bed mobility, and full locomotion. (R-5). The assessment found that Petitioner demonstrated procedural, situational, and short term memory capacities. Petitioner was able to understand the assessment questions, and make themselves understood throughout the assessment. (R-5).

Petitioner did not dispute the nursing assessment findings that they could independently perform their ADLs, but identified a recent temporomandibular joint issue that was causing problems with chewing and swallowing food for which Petitioner had scheduled a doctor's appointment.

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

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<sup>1</sup> 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. While Petitioner may have other medical conditions, including a temporomandibular joint issue, 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 9th day of AUGUST 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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