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Assistant Commissioner

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

A.B.,

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 12573-24

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 April 10, 2025.

The matter arises regarding the Office of Community Choice Options' (OCCO) May 15, 2024 denial of Petitioner's clinical eligibility under N.J.A.C. 8:85-2.1 and New Jersey's NJ FamilyCare Comprehensive Demonstration, Section 1115. The issue presented here is whether OCCO properly denied Petitioner's clinical eligibility under Medicaid regulations.

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 assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered nurse who signs and certifies the completion of the assessment. 42 USC § 1396 r.

On May 14, 2024, Petitioner was assessed by Madonna Hill (Hill), OCCO nurse, at Aristacare at Whitting, NF, where Petitioner resided. (R-6). Per the assessment, thirty-six-year-old Petitioner was admitted to Aristacare on June 2, 2021. Ibid. Petitioner was diagnosed with unspecified cardiomyopathy, other intra-abdominal and pelvic swelling,

mass and lump, and the presence of a heart assist device. Ibid. Hill completed an assessment in Petitioner's room, where they played computer games. Ibid. Petitioner could recite their social security number, date of birth, and medical history. Ibid. Petitioner was independent by wearing their clothes and choosing activities alone in their room. Ibid. Petitioner was independent in personal hygiene, bathing, dressing, toilet use and walking. Ibid. As per the Minimum Data Set (MDS) dated March 26, 2024, and signed by Amber Davis, MDS Coordinator, Petitioner was independent with their activities of daily living (ADLs). Ibid. Amy Vowell, Director of Aristacare, also reported that Petitioner was independent with their ADLs, but due to their life-saving device and being homeless, Petitioner was admitted to the nursing facility. Ibid. Petitioner wants to move out of the nursing facility once they secure a suitable home in the community. Ibid. Upon completing the May 14, 2024 assessment, Hill determined that Petitioner did not meet NF level of care because Petitioner did not have cognitive deficits and was independent in all their ADLs. Ibid.

Petitioner appealed OCCO's denial of clinical eligibility. ID at 1. The hearing was scheduled and held on January 3, 2025, where the parties agreed that the issues at hand were legal in nature and that this matter could be decided on submissions. ID at 2. The Administrative Law Judge (ALJ) kept the record open until January 31, 2025, letting parties provide closing submissions. Ibid.

The ALJ found that OCCO conducted a complete evaluation of the level of assistance required by Petitioner in ADLs and determined that they are independent in all areas. ID at 8. Consequently, OCCO concluded that Petitioner did not meet the criteria for clinical eligibility for NF level of care pursuant to N.J.A.C. 10:166-2.1. Ibid. The ALJ concluded that OCCO presented credible evidence to support the determination that

Petitioner was not clinically eligible for NF under MLTSS. ID at 9. I agree with the ALJ's findings.

New Jersey's Medicaid program covers NF care only when it is medically necessary. To qualify for NF level-care, Petitioner must show they cannot care for themselves without long-term services and support (LTSS).

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 ADLs. Additionally, Petitioner was found to not suffer from any cognitive deficits. Testimony by Amy Vowell and the MDS signed by Amber Davis described Petitioner as independent in all ADLs, and Petitioner did not have cognitive deficits. The facility's records confirmed that Petitioner was independent in all tasks. Petitioner is willing to move out of the Aristacare if they find a place to live. The record is clear that Petitioner does not meet the nursing home level of care.

Based on the record before me, the Initial Decision appropriately affirmed the denial of benefits based on OCCO's assessment, the facility's care records, and Petitioner's statements at the time of the assessment, finding that Petitioner did not meet the clinical eligibility. Thus, OCCO properly denied Petitioner's clinical eligibility for NF level of care under N.J.A.C. 8.85-2.1 and New Jersey FamilyCare Comprehensive Demonstration, Section 1115.

THEREFORE, it is on this 7th day of APRIL 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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