



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Medical Assistance and Health Services

P.O. Box 712

Trenton, NJ 08625

MIKIE SHERRILL
Governor

DR. DALE G. CALDWELL
Lt. Governor

STEPHEN CHA, MD, MHSR
Commissioner

GREGORY WOODS
Assistant Commissioner

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

G.H.,

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 02865-26

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. Both parties filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 31, 2026, in accordance with N.J.S.A. 52:14B-10 which requires an

Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt.

This matter arises from the Division of Aging Services' (DoAS) December 26, 2025, denial of clinical eligibility under N.J.A.C. 10:166. (R-5). On December 26, 2025, a New Jersey Choice Assessment was conducted by registered nurse, Isabel Salmeron, R.N., where Petitioner resided. ID at 3. As a result, the Office of Community Choice Options (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-3). The Initial Decision upheld the denial as the Administrative Law Judge (ALJ) found that Petitioner had not established, by a preponderance of the evidence, that Petitioner satisfied the clinical criteria for Medicaid. ID at 5.

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. 10:166-2.1(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 nursing facility 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. Nursing facility residents are dependent in several activities of daily living

(bathing, dressing, toilet use, transfer, locomotion, bed mobility, and eating).” N.J.A.C. 10:166-2.1.

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, Petitioner’s diagnoses include C5-C6 herniation, seizures, rheumatoid arthritis, right ankle nerve damage, bilateral carpal tunnel syndrome, gastritis, chronic pain, and depression. ID at 3. The nursing assessment noted that Petitioner performed all ADLs independently including eating, bathing, personal hygiene, dressing upper/lower body, transfers, toileting and locomotion. (R-3). Petitioner was also alert and oriented to person, place, time, and situation. Ibid. It was determined that her memory was not impaired as evidenced by her ability to recall three out of three unrelated objects. Ibid.

During the Fair Hearing, Nurse Salmeron testified that she reviewed Petitioner’s medical history and prior evaluation from December 2025, and met with, observed, and interviewed Petitioner. ID at 3. Nurse Salmeron observed that Petitioner was able to

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

walk without assistance, albeit slowly, and that Petitioner was alert, oriented, and cognitively intact. Ibid. Nurse Salmeron also found that Petitioner was independent in her daily decision making, managing her schedule, personal care, and social activities. Ibid. Petitioner reported to Nurse Salmeron that she can perform all ADLs but experiences pain while doing some of these activities. ID at 4.

In response, Petitioner argues that she is entitled to MLTSS as an SSI recipient. ID at 5.

In the Initial Decision the ALJ found that in December 2026, OCCO conducted a complete evaluation of the level of nursing facility service and assistance required by Petitioner and that Petitioner did not exhibit cognitive or medical impairments that would require nursing facility services. ID at 4. Petitioner was able to communicate, demonstrated no short-term memory deficits, and was able to understand and provide answers to questions that were asked. ID at 4-5. Petitioner can perform all ADLs independently. ID at 5. While Petitioner needs help with meal preparation, she does not need assistance with eating. Ibid. The ALJ also concluded that Petitioner does not need assistance transferring from the bed to standing, walking, and is clearly independent with bathing, dressing, and toileting, as evidenced by Petitioner's own testimony. Ibid. Therefore, the Initial Decision upheld OCCO's determination that Petitioner is not entitled to nursing facility level of services because Petitioner did not meet the clinical criteria for Medicaid at the time of OCCO's denial. Ibid.

Petitioner filed exceptions to the Initial Decision. Petitioner's exceptions contained the notification of clinical eligibility letter dated August 28, 2023, email correspondence with Nurse Salmeron and two other unknown people, dated December 28, 2025, a copy of the Initial Decision in this matter, and a few other miscellaneous documents. Petitioner's exceptions did not contain any narrative specifying the findings of fact,

conclusions of law or dispositions to which exception is taken. The Division of Aging Services, Office of Community Choice Options submitted a Reply to the exceptions filed by Petitioner which request that Petitioner's exceptions not be considered as they do not comply with N.J.A.C. 1:1-18.4(b).

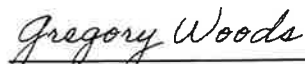
I concur with the ALJ's determination that according to the evidence presented, Petitioner does not meet the clinical criteria for Medicaid as outlined in N.J.A.C. 10:166-2.1 or the New Jersey FamilyCare Comprehensive Demonstration. Based on Nurse Salmeron's testimony, the ALJ concluded that Petitioner is not cognitively impaired and can perform all ADLs independently. Petitioner did not demonstrate that she is clinically eligible for nursing facility level of services.

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 25th day of AUGUST, 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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