

receipt.

This matter arises from the Division of Aging Services' (DoAs) October 3, 2025, denial of clinical eligibility under N.J.A.C. 10:166-2.1. (R-5). Petitioner is a fifteen-year-old who has been diagnosed with Dandy Walker Variant disease and seizures. ID at 2. On October 3, 2025, a New Jersey Choice Assessment was conducted by Anju Panicker, R.N., at Petitioner's home. Ibid. As a result, OCCO determined that Petitioner was not clinically eligible for the Pediatric MLTSS program. (R-5).

In order to receive MLTSS services, Petitioner has 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. 10:166-2.1.

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(a)(1).

Further, NJ FamilyCare Comprehensive Demonstration, Section 1115 states that a child (ages birth through 20) must be clinically eligible for MLTSS services when:

1. The child exhibits functional limitations, identified in terms of developmental delay or functional limitations in specific age-appropriate activities of daily living, requiring nursing care over and above routine parenting and meets one of the following nursing criteria:

- a. Medical and/or intense therapeutic services for the medically complex child who exhibits a severe illness that requires complex skilled nursing interventions 24 hours per day, seven days per week.
 - b. Skilled Nursing Services must be based upon, but not limited to, at least one of the following:
 - i. Dependence on mechanical ventilation;
 - ii. The presence of an active tracheostomy;
 - iii. The need for deep suctioning;
 - iv. The need for around-the-clock nebulizer treatments with chest physiotherapy;
 - v. Gastrostomy feeding when complicated by frequent regurgitation and/or aspiration; or is on continuous feeding for more than 4 hours at a time;
 - vi. A seizure disorder manifested by frequent prolonged seizures requiring emergency administration of anticonvulsant medication in the last four months;
 - vii. Medical and/or intense therapeutic services for the technology dependent child who requires a medical device that the Federal Food and Drug Administration has classified pursuant to 21 C.F.R. 860.3, as amended and supplemented, as a life-supporting or life-sustaining device that is essential to, or that yields information that is essential to, the restoration or continuation of a bodily function important to the continuation of human life.
2. These services must be provided if the life-sustaining device is necessary to compensate for the loss of a vital function, to avert death or further disability, and if the use of the device requires ongoing skilled nursing intervention.

During the Fair Hearing, Nurse Panicker testified that she performed an assessment of Petitioner in his home and based on her observations of Petitioner and her discussions with Petitioner's nurse, Nurse Panicker concluded that Petitioner is not clinically eligible for the Pediatric MLTSS program. ID at 2-3. Specifically, Petitioner's last seizure was more than a year ago and he is not on any regular medications. Ibid.

Petitioner's mother testified that Petitioner requires skilled nursing support so that he can be assisted while he is in school. ID at 3. She stated that Petitioner has had this service for over fifteen years and he is ineligible for other services due to income. ID at

3-4. She provided support for the skilled nursing support with a letter from Petitioner's physician, Dr. Greaney, who states that Petitioner experiences recurrent seizures, which may occur unpredictably and pose significant risks. (P-1) ID at 4. Dr. Greaney also states that nursing is required because the patient requires continuous monitoring and immediate intervention when seizure occurs. Ibid. Furthermore, she states that without skilled nursing support, Petitioner would be at a significant risk of medical complications and injury. Ibid. The Administrative Law Judge (ALJ) notes that there was no mention in Dr. Greaney's letter of Petitioner satisfying any criteria under NJ FamilyCare Comprehensive Demonstration, Section 1115. ID at 4.

In the Initial Decision, the ALJ found as fact that OCCO determined that Petitioner's condition does not satisfy the clinical eligibility criteria for Pediatric MLTSS services. ID at 6. Petitioner's mother agreed that Petitioner has not had a prolonged seizure requiring emergency administration of anticonvulsant medication in the last four months. Ibid. Additionally, there is nothing in Dr. Greaney's letter that supported clinical eligibility. Ibid. In conclusion, the ALJ found that Petitioner is not entitled to skilled nursing services because a preponderance of evidence does not exist that he met the clinical criteria at the time of OCCO's denial. Ibid.

I concur with the ALJ's determination that according to the evidence and testimony presented, Petitioner does not meet the clinical criteria for Pediatric MLTSS services as outlined in N.J.A.C. 10:166-2.1 or the New Jersey FamilyCare Comprehensive Demonstration. Petitioner does not use a ventilator, does not have an active tracheostomy, does not need deep suctioning, does not require around-the-clock nebulizer treatments with chest physiotherapy, is not on continuous feeding for more than four hours at a time, nor does he use gastrostomy feeding, does not have a seizure disorder manifested by frequent, prolonged seizures requiring emergency administration

of anticonvulsant medication in the last four months, is not technology-dependent, and does not use a device that requires ongoing skilled nursing intervention. While Petitioner's medical conditions and needs appear to be significant, the evidence does not support a finding that Petitioner meets the criteria as set forth in N.J.A.C. 10:166-2.1. Petitioner may request a reassessment should Petitioner feel this is appropriate based on a change in need.

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 8th day of May 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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