

the Office of Community Choice Options (OCCO). Id. at 2. As a result, OCCO determined that Petitioner was ineligible for the MLTSS program. Id. at 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.

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. 8:85-2.11.” 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 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. 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:

¹ N.J.A.C. 8:85-2.1, was readopted, effective October 16, 2024, and was recodified to N.J.A.C. 10:166, effective November 18, 2024. See 56 N.J.R. 2242(a).

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.

In this matter, in the nursing assessment, Nurse Alla determined that the Petitioner was not clinically eligible for the MLTSS program because they do not require limited assistance with at least three activities of daily living (ADLS). ID at 3. Nurse Alla based her determination on her observations of the Petitioner, discussions with the Petitioner and their direct care providers, and a review of the facility's medical records and found that the Petitioner was independent with all of their ADLs. Ibid.

At the fair hearing, Nurse Alla testified about the evaluation. She stated that the Petitioner reported that she only needs help with housekeeping, laundry, for someone to wash her back some days, and meal set up. Ibid. Nurse Alla further testified that housekeeping and laundry are not ADLs that qualify for nursing facility level of care and because the Petitioner can eat and drink independently, meal set up does not include physical hands-on assistance for eating. Ibid. She further testified that washing her back does not qualify as physical hands-on assistance with bathing. Ibid. According to her testimony, Nurse Alla also observed the Petitioner physically perform multiple ADLs independently during her clinical eligibility assessment. Ibid. Nurse Alla observed the Petitioner walk independently without an assistive device, or using the wall for support, safety bars or assistance from staff members. Nurse Alla also stated that the Petitioner is able to wash her clothes, make her bed, and care for her dog. Ibid. Nurse Alla further

testified that the Petitioner's direct care providers reported that the Petitioner does not require safety checks or hands-on assistance with her ADLs. Ibid. Nurse Alla also stated that she found the Petitioner's decision making was intact. Ibid. The Petitioner was responsible for all the care of her pet dog, cleaned her own room, left the facility with a friend for grocery shopping, dressed herself independently, and manages her own doctor's appointments. Id. at 3-4. Nurse Alla found that the Petitioner is not eligible for nursing facility level of care because she does not require cuing and is independent in her decision making. Id. at 4.

In the Initial Decision, the Administrative Law Judge (ALJ) found that the medical records presented at the hearing, up to the date of the assessment, also supported a determination that the Petitioner was not entitled to nursing facility level of care. Ibid. The records specifically indicate that the Petitioner is oriented to time and place, does not have any safety risks, and is cognitively intact. Ibid. The ALJ also found the Petitioner's testimony at the fair hearing to be consistent with Nurse Alla's assessment. Ibid. As such, the ALJ found that the Petitioner's condition, at the time of the assessment, did not rise to the level required for clinical eligibility of MLTSS services, and affirmed OCCO's decision to deny MLTSS services to the Petitioner. I agree.

The ALJ considered testimony from witnesses for both the Petitioner and Respondent. The Petitioner's testimony was found to be consistent with the clinical assessment performed by Nurse Alla. The ALJ found that the Petitioner's testimony supported the OCCO's assessment. The ALJ also considered the medical records submitted into evidence and found that the medical records support the OCCO's assessment, specifically that the Petitioner is cognitively intact.

The Petitioner did submit exceptions dated February 13, 2026. However, the Petitioner's exceptions largely consisted of the resubmission of a letter brief that was

submitted on January 21, 2026, before the record was closed and before the Initial Decision was issued. According to N.J.A.C. 1:1-18.4(b), exceptions “shall specify the specific findings of fact, conclusions of law or dispositions to which exception is taken,” and “set out specific findings of fact, conclusions of law or dispositions proposed in lieu of or in addition to those reached by the judge.” While Petitioner argues in her exceptions that the Initial Decision is not supported by her testimony or medical records, the Respondent argues in their exceptions that Petitioner’s exceptions failed to set out specific findings of fact proposed in lieu of or in addition to those reached by the ALJ. Respondent Exceptions at 3. I agree that Petitioner’s exceptions did not “specify the specific findings of fact, conclusions of law or dispositions to which exception is taken,” because they were written before the record closed and the Initial Decision was entered.

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. Petitioner demonstrates the ability to independently perform all of their ADLs and does not have a cognitive impairment impacting decision making.

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision in this matter.

The Petitioner may reapply for MLTSS services if her medical status or condition has changed since the May 2025 assessment.

THEREFORE, it is on this 8th day of May 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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