



**State of New Jersey**

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

PO Box 712

TRENTON, NJ 08625-0712

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

CAROLE JOHNSON  
*Commissioner*

CAROL GRANT  
*Acting Director*

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

A.K.,

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 3482-2019**

As Acting Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the contents of the OAL case file. No exceptions to the Initial Decision were filed. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 24, 2019 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. The Initial Decision was received on May 8, 2019.

Based upon my review of the record, I hereby ADOPT the recommended decision of the Administrative Law Judge with regard to the finding that Petitioner is not eligible for nursing home level of care. Petitioner had entered the nursing facility in December of 2018 after being hospitalized for kidney failure. ID at 2. While she was initially found eligible to meet nursing home level of care, a subsequent assessment determined Petitioner was no longer met the clinical eligibility criteria for nursing facility level of care so as to receive Managed Long Term Services and Supports (MLTSS) benefits.

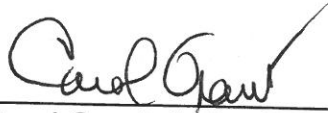
I agree with the Administrative Law Judge that that Petitioner does not satisfy the clinical eligibility criteria necessary to qualify for nursing facility level of care pursuant to N.J.A.C. 8:85-2.1 and 2.2. Eligibility for nursing facility services is determined by the professional staff designated by the Department based on a comprehensive needs assessment that demonstrates that the beneficiary requires nursing home level of care. N.J.A.C. 8:85-2.1. Petitioner's assessment showed she requires little to no assistance with activities of daily living (ADLs). At the assessment, Petitioner was awake, alert and oriented. She can use a rolling walker without assistance. A nurse at the facility confirmed that Petitioner was independent for bathing, dressing, transfers, eating and toileting. R-1. Petitioner presented without any cognitive deficits and was able to answer the assessor's questions.

At the hearing, Petitioner, her daughter and her friend testified. While Petitioner claims she needs nursing home care after knee surgery, she provided no medical evidence that this surgery was imminent. Moreover, care and rehabilitation after surgery will be addressed in conjunction with the surgery. This assessment is for Petitioner's continued nursing home eligibility. Petitioner did not dispute she was independent and able to care for herself. ID at 3. The testimony from Petitioner and her witnesses fails to counter the clinical assessment. As such, I hereby ADOPT the Initial Decision in its entirety.

THEREFORE, it is on this 21<sup>st</sup> day of JUNE 2019,

ORDERED:

That the Initial Decision affirming the denial of clinical eligibility for nursing home level of care is hereby ADOPTED.



---

Carol Grant, Acting Director  
Division of Medical Assistance  
and Health Services