



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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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

Y.E.,

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 02045-2019

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 17, 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 1, 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. However, I FIND there is no basis for a reassessment to be done based solely on medication administration. Petitioner had entered the nursing facility to receive sub-acute rehabilitative care. After initially being found eligible to meet nursing home level of care, a subsequent assessment determined he 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 he requires little to no assistance with activities of daily living (ADLs). The April 12, 2019 progress notes from the nursing home confirm that Petitioner is alert and oriented. P-1. Petitioner's orientation and lack of need for assistance in ADL's was confirmed in the April 1, 2019 Minimum Data Set, which part of the federally mandated process for clinical assessment of all residents in Medicare and Medicaid certified nursing homes. P-2. He is independent in areas of daily living and does not suffer from any cognitive impairment.

However, I do not agree with the Initial Decision's findings regarding reassessing Petitioner's level of care due to his use of an intravenous medication. Without attributing them any weight, I note that Petitioner's witnesses and the documents presented, which were discounted by the ALJ, did not raise the issue of his medications meeting the requirements under N.J.A.C. 8:85-2.1. Rather difficulty with medications is not sufficient on

its own to warrant institutionalization. Petitioner is cognitively intact and can perform most ADLs without assistance. The assessment notes Petitioner checks himself out of the facility to walk to nearby shops to purchase food. R-2. I find nothing that warrants a reassessment at this time.

THEREFORE, it is on this 14th day of JUNE 2019,

ORDERED:

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

That the determination that another reassessment is warranted is REVERSED.



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