

Jersey Choice Assessment was conducted by registered nurse, Donna Hylton, R.N., at the facility where Petitioner resided. ID at 2. As a result, 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-5). 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. 8:85-2.2." 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 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:

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, the nursing assessment noted that Petitioner performed all ADLs independently including eating, bathing, personal hygiene, dressing upper/lower body, transfers, toileting and locomotion, despite the use of a cane walker as needed. (R-5). Independence with ADLs was further confirmed in the Minium Data Sets records. (R-5).

During the fair hearing, Petitioner testified that he prepared his own food a lot of the times because he did not like the food at the facility, he cleans his own room, manages his checkbook and pays his bills independently. ID at 6. He also testified that he bathes, dresses, toilets and transfers independently but uses a cane. Ibid. Petitioner has had thirty-seven spinal procedures from 2011 to 2024. Ibid. Additionally, he sometimes has such severe pain that he is unable to get out of bed or a chair, though no one assists him during those times. Ibid.

In the Initial Decision the ALJ concluded that there is no dispute that at the time

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

Nurse Hylton conducted the assessment, Petitioner was cognitively intact, independent in all ADLs and able to function without any assistance. ID at 9. Therefore, the ALJ concluded that Petitioner was not eligible for NF level of care. Ibid.

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. It is undisputed that Petitioner demonstrates the ability to independently perform 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.

THEREFORE, it is on this 18th day of DECEMBER 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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