



PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lt. Governor

**State of New Jersey**  
**DEPARTMENT OF HUMAN SERVICES**  
Division of Medical Assistance and Health Services  
P.O. Box 712  
Trenton, NJ 08625-0712

SARAH ADELMAN  
Commissioner

GREGORY WOODS  
Assistant Commissioner

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

C.C.,

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 01307-25**

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Exceptions were not filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is November 13, 2025, in accordance with an Order of Extension.

The matter arises from the New Jersey Office of Community Choice Options (OCCO) October 10, 2024, denial of clinical eligibility for the Managed Long Term Services and Supports (MLTSS) Medicaid program. ID at 2. The Petitioner was assessed October 8, 2024 by Ashara Brown, RN, (Brown) to determine their eligibility for nursing facility level of care. Ibid.

In order to receive Long-Term Care Services, Petitioner had to be found clinically eligible. The mechanism for this 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 services described in N.J.A.C. 8:85-2.2." N.J.A.C. 8:85-2.1(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 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. 8:85-2.1(a)1. An individual is clinically eligible for NF services if they demonstrate that they are cognitively impaired or physically dependent requiring assistance and must complete an annual assessment. N.J.A.C. 10:166-2.1.

The Petitioner was admitted to the Care One at Hanover Nursing Facility (NF) on October 22, 2023. ID at 2. Petitioner's Admission Record reflects diagnoses of: other seizures; acute cough; hyperlipidemia, unspecified; depression, unspecified; anxiety disorder, unspecified; insomnia, unspecified; essential (primary) hypertension; unspecified systolic (congestive) heart failure; and personal history of traumatic brain injury. (R-3.) A Minimum Data Set (MDS), dated August 29, 2024, completed on September 11, 2024, reflects that the Petitioner was independent in all activities of daily living (ADLs). (R-4.) On October 8, 2024, Brown utilized the New Jersey Choice Assessment tool to determine petitioner's eligibility for the New Jersey MLTSS program

and found that the Petitioner was awake, alert, and oriented to person, place, and time, but did exhibit some forgetfulness. (R-2). Brown further found that the Petitioner was able to make themselves understood as evidenced by their ability to communicate clearly and answer questions without any prompting or cueing. Ibid. Brown also noted that the Petitioner reported that they were independent with bathing, dressing (upper and lower body) transferring, toilet use, bed mobility, walking, locomotion, eating, and personal hygiene. Ibid. Brown also observed the Petitioner ambulate with an assistive device without difficulty. Ibid. In addition, Brown noted that the Petitioner's nurse, Cris Blake, reported that the Petitioner is independent with activities of daily living, and that the aide only brings a food tray to the Petitioner. Ibid. On October 10, 2024, the OCCO issued a letter to the Petitioner that they were not eligible for Nursing Facility Level of Care in a nursing facility or the community in accordance with N.J.A.C. 8:85-2.11 and New Jersey's FamilyCare Comprehensive Demonstration, Section 1115.

Brown testified at the Fair Hearing that she reviewed the NF medical records and the MDF, interviewed the Petitioner and their direct caregivers, completed the NJ Choice Assessment and found that the Petitioner's cognition was intact and they were independent in all ADLs. ID at 8. The Petitioner was awake, alert and oriented to person, place and time. Ibid. Additionally, the Petitioner opened their bedroom door and moved from the door to a chair without any issue. Ibid. The Petitioner also mentioned to Brown that they were going to take a shower. Ibid. Brown also noted that the Petitioner stated that they take care of all the care for their service dog, and witnessed the Petitioner bend down to clean up the dog's feces. Ibid. The Petitioner did not need help to do so, nor did the act make them dizzy. Ibid. The Petitioner also did not require assistance to move around, and there was no staff physically assisting them. The Petitioner was also able to correctly state their name, date of birth, marital status and current president, but did

exhibit some forgetfulness by not being able to recall to "apple", "table" and "shoe" after five minutes. Id. at 9. The Petitioner was able to make themselves understood, communicate clearly and answer questions without any help. Ibid. When asked, the Petitioner reported to Brown that they were independent in all ADLs. Ibid. Nurse Blake reported that the Petitioner was independent in ADLs as well, and that the only assistance provided to the Petitioner at that time was that an aide brings a food tray to them. Ibid. As such, Brown found that the Petitioner was cognitively intact and independent in all ADLs. Ibid. The Petitioner testified at the Fair Hearing that their file at the NF did not accurately reflect their medical history or document their medical symptoms and needs, and that Brown's assessment was too short to understand their medical situation. Id. at 10.

In the Initial Decision the Administrative Law Judge (ALJ) concluded that the Petitioner was not eligible for nursing facility level of care in October 2024. Id. at 16. I agree. To be eligible for nursing facility level of care one must have severely impaired cognitive deficits, and deficits with problem solving and memory, N.J.A.C. 10:166-2.1, or they must be dependent in several activities of daily living, such as bathing, dressing, toilet use, transfer, locomotion, bed mobility, and eating. N.J.A.C. 8:85-2.1(a)1. When Brown conducted the assessment on October 8, 2024, the Petitioner was able to communicate clearly and answered questions without the need for queuing or prompting. Moreover, the Petitioner was found to be independent in all ADLs in the MDS dated August 29, 2024, and by Brown's assessment on October 8, 2024. The Petitioner was not receiving any assistance with bathing, dressing, toilet use, transfer, locomotion, bed mobility, or eating at the NF at the time of the assessment.

The credible evidence in the record indicated that the Petitioner did not meet the clinical eligibility criteria to qualify for nursing facility level of care, and that the Petitioner

failed to present any evidence to contradict this determination. The Petitioner was independent with bathing, dressing (upper and lower body) transferring, toilet use, bed mobility, walking, locomotion, eating, and personal hygiene. The Petitioner does not require any assistance medically or with the activities of daily living and therefore, they are not clinically eligible to receive NF services.

Thus, for the reasons stated above, I FIND that Petitioner was properly denied clinical eligibility by the OCCO's assessment. The record does not contain any evidence that contradicts the October 2024 assessment, or August 29, 2024 MDS. The Petitioner does not need hands-on assistance in any ADLs, and does not suffer from any cognitive deficits. Accordingly, the Initial Decision appropriately affirmed the denial of benefits based on OCCO's assessment, finding that Petitioner did not meet the clinical criteria for nursing facility-level services. However, the Petitioner can reapply for MLTSS Medicaid if their cognitive status or ADL dependence has changed since October 2024.

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 10th day of November 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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