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

K.D.,

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 10674-24

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence, and the Initial Decision in this matter. Neither Party filed exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is May 8, 2025, in accordance with an Order of Extension.

This matter arises regarding the Office of Community Choice Options' (OCCO) May 29, 2024, denial of Petitioner's clinical eligibility under N.J.A.C. 8:85-2.1 and New Jersey's NJ FamilyCare Comprehensive Demonstration, Section 1115. The issue presented here is whether OCCO properly denied Petitioner's clinical eligibility under Medicaid regulations.

Eligibility for nursing facility (NF) services will be determined by the professional staff designated by the Department based on a comprehensive needs assessment that demonstrates that the beneficiary requires, at a minimum, the basic NF services. Individuals requiring NF services 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 on several activities of daily living (ADL), like bathing, dressing, toilet use, transfer, locomotion, bed mobility, and eating. N.J.A.C. 8:85-2.1 (a).

A NF must conduct a comprehensive, accurate, standardized, reproducible assessment that describes the resident's capability to perform daily life functions and significant impairments in functional capacity. Each assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered nurse who signs and certifies the completion of the assessment. 42 USC § 1396 r.

Here, Petitioner currently resides at Brookhaven Center for Rehabilitation and Healthcare, LLC. (P-2 at 12.) Petitioner was admitted to the facility on February 26, 2024. Ibid. Petitioner is diagnosed with idiopathic peripheral autonomic neuropathy, rheumatoid arthritis, bipolar disorder, bulimia nervosa, atherosclerotic heart disease, anemia, gout,

hypertension, chronic kidney disease, GERD, type 2 diabetes, otitis media, presence of cardiac pacemaker. Ibid.

On May 28, 2024, Ashana Brown, R.N., (Brown) assessed Petitioner for nursing facility level care. Ibid. Brown explained to Petitioner the nursing facility's level of care requirements. Ibid. Per assessment, Petitioner exhibits short-term memory problems. Ibid. Petitioner understands clearly and answers questions without any problem. Ibid. Petitioner confirmed they are independent with bathing, dressing (upper and lower body) transferring, toilet use, bed mobility, walking, locomotion, eating, and personal hygiene. Ibid. Upon completing the assessment, Brown explained to Petitioner that they don't meet clinical eligibility to qualify for nursing-level care. Ibid.

On July 15, 2024, Petitioner requested a fair hearing with DMAHS. ID at 2. A Zoom hearing was scheduled and held on January 13, 2025. Ibid. Brown testified on behalf of OCCO, and Petitioner testified on their own behalf. Ibid. The record was closed on January 16, 2025. Ibid.

During the hearing, Brown testified that Petitioner is independent with bathing, dressing, bed mobility, walking, and locomotion, eating, and dressing (upper and lower body) transferring, toileting, and personal hygiene. ID at 3. Additionally, Brown testified that she spoke with "Sylvia", who is Petitioner's nurse at Brookhaven Center, and she confirmed that Petitioner is independent with ADLs. Ibid. Brown stated that in order for Petitioner to qualify for a nursing facility level of assistance, they must have deficits in at least three of the ADLs and/or severe cognitive impairments that compromise their personal safety to qualify for assistance. Ibid. Brown testified that her assessment of Petitioner did not result in a finding that Petitioner met these requirements.

Petitioner testified that their main issue was their walking ability and their overall health. ID at 4. Petitioner testified that following the assessment of May 2024, they

underwent right knee surgery in July 2024 and that they have pain in their right knee. ID at 5. Petitioner stated that they use a walker to ambulate in their residence. Ibid. Petitioner also testified that in addition to the surgery on right knee, they had surgery in March 2024 for rectal, bladder, and uterus prolapse. Ibid. Overall, Petitioner testified that they need help with ambulating, assistance with their household chores, and transportation, as they cannot drive or take public transportation. Ibid.

The ALJ noted that Petitioner does not challenge OCCO's assessment or conclusions that they are independent of their ADLs. ID at 6. Petitioner's defense was that they had difficulties in their balance and mobility and their poor health condition. Ibid. The ALJ found that while the record demonstrates that Petitioner has mobility problems and they have many key health issues that require medical attention, Petitioner does not satisfy the criteria set forth at N.J.A.C. 8:85.2.1 (now N.J.A.C. 10:166) for NF care. Ibid.

The Administrative Law Judge (ALJ) found both Brown's and Petitioner's testimony credible. ID at 5. The ALJ found Brown's testimony concerning her determination that Petitioner is not eligible for NF care is free of bias. Ibid. The ALJ found that Petitioner's testimony was credible, and that Petitioner understood OCCO's decision was consistent with their overall cognitive and physical condition. Ibid. The ALJ concluded that OCCO has presented more credible evidence than Petitioner. Ibid.

I agree with the ALJ's findings. New Jersey's Medicaid program covers NF care only when medically necessary. 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).

Here, Petitioner was assessed by an OCCO nurse, Brown, and it was determined that they did not meet the nursing home level of care, as they did not need hands-on assistance with any ADLs. Petitioner was found to not suffer from any cognitive deficits. While Petitioner testified at the hearing in this matter that they have an overall medical condition and requires help with ambulating and assistance with their household chores, Petitioner does not satisfy the criteria for nursing-level care.

Accordingly, the Initial Decision appropriately affirmed the denial of benefits based on OCCO's assessment, the facility's care records, and Petitioner's statements at the time of the assessment, finding that Petitioner did not meet the clinical criteria for nursing facility-level services.

Thus, OCCO properly denied Petitioner's clinical eligibility for NF level of care under N.J.A.C.10:166 and New Jersey FamilyCare Comprehensive Demonstration, Section 1115.

THEREFORE, it is on this 6th day of MAY 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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