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

L.F.,

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 13189-24

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. Petitioner filed exceptions to the Initial Decision. Office of Community Choice Options (OCCO) filed a response to the Petitioner's exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is September 22, 2025, in accordance with an Order of Extension.

This matter arises regarding the OCCO's June 18, 2024, denial of Petitioner's clinical eligibility under N.J.A.C. 8:85-2.1¹ and New Jersey's NJ FamilyCare Comprehensive Demonstration, Section 1115. The issue presented here is whether OCCO properly denied Petitioner's clinical eligibility on June 18, 2024, 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 described in N.J.A.C. 8:85-2.2. 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 (bathing, dressing, toilet use, transfer, locomotion, bed mobility, and eating). N.J.A.C. 8:85-2.1(a)(1).

New Jersey's NJ FamilyCare Comprehensive Demonstration requires applicants for Medicaid Managed Long Term Services and Supports (MLTSS) to meet a Nursing Facility Level of Care (NFLOC) requirement. It means they need full-time care typically associated with a nursing home, which is assessed through an in-person evaluation focusing on ADLs and cognitive function.

¹ N.J.A.C. 8:85-2.1 was readopted, effective October 16, 2024 and was recodified to N.J.A.C. 10:166, effective November 18, 2024.

In this case, Petitioner has been residing in Spring Hills since January 19, 2023. ID at 2. On April 22, 2024, Spring Hills conducted a Minimum Data Set Resident Assessment and Care Screening (MDS) and identified that Petitioner did not have significant impairment with cognitive patterns or evidence of mental status change. (R-6.) Per the April 22, 2024 MDS, Spring Hills did not provide physical assistance to Petitioner with any ADLs. Ibid. Staff members only supervised or set up for Petitioner concerning a shower transfer, but Petitioner could bathe themselves. Ibid. Petitioner could get to the bathroom and was able to transfer from their bed to standing. Ibid. Petitioner needed no assistance with eating or toileting. Ibid. Petitioner was able to roll from side to side to bed mobility and was able to transfer from a chair to stand upright. Ibid.

On June 7, 2024, the facility completed the Spring Hills Skilled (GG) report and identified that Petitioner did not have any significant impairment with cognitive patterns or evidence of mental status change. (R-5.)

On June 10, 2024, Erica Fields (Fields), a program support specialist, on behalf of OCCO, performed Petitioner's clinical assessment at the facility, primarily in their room. (R-4.) Fields' assessment included meeting with Petitioner, observing them at the NF, and asking Petitioner questions about assistance needed with ADLs. Ibid. Fields also spoke with staff and reviewed medical records from the facility, including the April 22, 2024, MDS. Ibid. Business Office Manager for Spring Hills, Joann Abramowicz (Abramowicz), and Alice Thiongo (Thiongo), who was being trained by Fields, were present during the clinical assessment that Fields conducted. Ibid.

Fields documented that Petitioner demonstrated no obvious cognitive problems, recalling the date, season, name, and unrelated items after several minutes and answering questions without cues. Ibid. Fields also noted that Petitioner did not require assistance with ADLs. Ibid. Fields further observed that Petitioner was alert, oriented as

to person, time, and place, and Petitioner was able to transfer from their wheelchair to walking without the need for assistance. Ibid. Fields observed that Petitioner was steady on her feet during the assessment. Ibid. Fields' ADL assessment of eating noted Petitioner was "independent" and did not require physical assistance. Ibid. Fields evaluated categories in personal hygiene, bathing, upper and lower body dressing, transfer, toilet use, bed mobility, and walking as "independent" without physical assistance, set-up help, or supervision. Ibid. Upon completing the assessment, Fields did not consider that Petitioner requires any physical or "hands-on" assistance with ADLs. Ibid.

By letter dated June 18, 2024, Petitioner was notified by DMAHS, Division of Aging Services (DoAS), that Petitioner was not clinically eligible for NFLOC in a nursing facility or the community because they did not meet the NFLOC qualifications in accordance with N.J.A.C. 8:85-2.1 and New Jersey's NJ Family Care Comprehensive Demonstration, Section 1115. (R-7.) By letter December 4, 2024, Petitioner was notified by DMAHS that Petitioner was eligible for NFLOC. (R-12.)

On July 1, 2024, Petitioner appealed OCCO's June 18, 2024 determination. ID at 2. The hearing was conducted on June 2, 2025. Ibid. During the hearing, Dr. Peter M. Pasley (Dr. Pasley), the Medical Director of Spring Hills, testified on Petitioner's behalf, and Fields testified on behalf of OCCO. ID at 4. Dr. Pasley testified that he has never seen Petitioner and serves only as the Director of the facility where Petitioner was staying. ID at 5. Dr. Pasley was not the treating physician and did not see Petitioner on the June 10, 2024 assessment. Ibid. Dr. Pasley was not familiar with the NJ Choice Assessment Tool and had never received training for the requirements of a person receiving MLTSS benefits. Ibid. Dr. Pasley was not familiar with N.J.A.C. 10:166-2.1. Ibid. Dr. Pasley

further testified that Petitioner could answer simple questions, but Petitioner has psychiatric problems for which they were taking medication. Ibid.

The Administrative Law Judge (ALJ) found that OCCO determined Petitioner to be ineligible because they were not severely cognitively impaired or dependent on physical assistance with three or more ADLs. ID at 6. Neither Fields' assessment nor the facility's MDS report and treatment records support Petitioner's clinical eligibility for NF services, as they required no physical assistance or had severe cognitive deficits. Ibid. OCCO assessed the current clinical status when evaluating an MLTSS recipient using established criteria. Ibid. The ALJ concluded that Petitioner is not entitled to NF services because a preponderance of evidence does not exist that they met the clinical criteria for NFLOC at the time of OCCO's denial. Ibid.

On July 1, 2025, Petitioner's attorney, Laurie Higgins (Higgins), filed exceptions to the Initial Decision. In the exception, Higgins asserts that the ALJ erred when she failed to give adequate weight to Dr. Pasley's testimony, as he was more than qualified to review Petitioner's medical records and interpret them for the Court. Higgins argues that the ALJ failed to consider Petitioner's diagnoses after Dr. Pasley testified that Petitioner had been diagnosed with a psychiatric disorder. Higgins requests that the Initial Decision be reversed.

On July 8, 2025, Bruce Duggan (Duggan), Regulatory Officer 1, on behalf of OCCO, replied to the exceptions filed by Higgins to the Initial Decision. Duggan noted that OCCO does not dispute that Dr. Pasley is a doctor who has the background to review and interpret Petitioner's medical records. However, there is no evidence to suggest that the Initial Decision did not adequately consider and weigh Dr. Pasley's testimony in this regard. Duggan argues that there is no evidence to support Dr. Pasley's assertion that Petitioner suffered from a diagnosis of a psychiatric disorder or cognitive issues.

Duggan further argues that Dr. Pasley's testimony that Petitioner suffers from a psychiatric disorder and cognitive issues is not supported by the medical documents in the record. Dr. Pasley did not indicate the exact psychiatric disorder or provide the exact cognitive issues that Petitioner was diagnosed with during his testimony.

Duggan finally argues that even if Petitioner had a psychiatric disorder or cognitive issues, these health conditions need to impact Petitioner's ability to perform ADLs in order for Petitioner to meet NFLOC for MLTSS. Even assuming that Petitioner did have a diagnosis of a psychiatric disorder, or cognitive issues, these conditions did not impact Petitioner's ability to perform ADLs at the time of their assessment.

Here, Fields, the OCCO assessor, met Petitioner in person on June 10, 2024, in Spring Hills where Petitioner was staying and conducted an assessment. During the assessment, Fields did not observe Petitioner having any cognitive impairments. Fields observed that Petitioner was able to transfer independently, without any assistance, from sitting to a standing position and locomote independently. Fields reviewed Petitioner's medical records prepared by direct care providers at Spring Hills. Fields spoke with one of Petitioner's direct care providers, Chante James, an LPN, who prepared the Spring Hill Skilled (GG) report dated June 7, 2024. Upon reviewing Petitioner's medical records from the facility, speaking with staff, Fields determined that Petitioner did not meet NFLOC, as they did not need hands-on assistance in any ADLs and, at most, needed supervision or set-up for Petitioner to shower transfer, but they could bathe themselves.

Petitioner argues that the ALJ erred when she failed to give adequate weight to the testimony of Dr. Pasley. I agree with the ALJ and OCCO that Dr. Pasley is a board-certified doctor in pediatrics and internal medicine who has worked in geriatric care settings. However, unlike OCCO assessor, Dr. Pasley did not observe whether Petitioner's short-term memory was intact through in-person conversation. Dr. Pasley did

not have the opportunity to see Petitioner independently perform multiple ADLs. Dr. Pasley did not have the chance to speak with Petitioner's direct care providers regarding Petitioner's symptoms.

Petitioner also argues that the ALJ failed to consider Dr. Pasley's testimony that Petitioner suffers from a psychiatric disorder and cognitive issues. OCCO stated in the reply letter that Petitioner did not provide any medical documents to substantiate the claim that they suffer from a psychiatric disorder or cognitive disorder. I concur. Even if Dr. Pasley testified that Petitioner suffered from a psychiatric disorder, he did not identify a specific psychiatric disorder. Dr. Pasley testified that he had reviewed Petitioner's medical reports. However, both the April 22, 2024 MDS and the June 7, 2024, Spring Hill's Skilled (GG) reports that were completed by Petitioner's direct care providers at Spring Hills identified that Petitioner does not have any significant impairment with cognitive patterns or evidence of mental status change.

Based on the record before me, I find that the Initial Decision appropriately affirmed the denial of clinical eligibility based on OCCO's assessment, Spring Hills's medical records, and Petitioner's statements at the time of the assessment, finding that Petitioner did not meet the clinical criteria for NFLOC.

Thus, OCCO properly denied Petitioner's clinical eligibility for NFLOC under N.J.A.C. 8:85-2.1 and New Jersey FamilyCare Comprehensive Demonstration, Section 1115 on June 18, 2024.

THEREFORE, it is on this 17th day of SEPTEMBER 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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