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

L.M.,

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 07484-25**

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 23, 2025.

This matter arises from the Division of Aging Services' (DoAs) November 14, 2024, denial of clinical eligibility under N.J.A.C. 10:166-2.1. (R-1). Petitioner is a three-year-old

who has been diagnosed with CTCF-related disorder, a progressive genetic disorder that impacts all areas of her life, including her physical cognition and cognitive development. ID at 2. On November 8, 2024, a New Jersey Choice Assessment was conducted by Alla Selibovskaya, R.N., at Petitioner's home. As a result, OCCO determined that Petitioner was not clinically eligible for the Pediatric MLTSS program. (R-3).

In order to receive MLTSS services, Petitioner has 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. 10:166-2.1.

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. 10:166-2.1(a)(1).

Further, NJ FamilyCare Comprehensive Demonstration, Section 1115 states that a child (ages birth through 20) must be clinically eligible for MLTSS services when:

1. The child exhibits functional limitations, identified in terms of developmental delay or functional limitations in specific age-appropriate activities of daily living, requiring nursing care over and above routine parenting and meets one of the following nursing criteria:

- a. Medical and/or intense therapeutic services for the medically complex child who exhibits a severe illness that requires complex skilled nursing interventions 24 hours per day, seven days per week.
  - b. Skilled Nursing Services must be based upon, but not limited to, at least one of the following:
    - i. Dependence on mechanical ventilation;
    - ii. The presence of an active tracheostomy;
    - iii. The need for deep suctioning;
    - iv. The need for around-the-clock nebulizer treatments with chest physiotherapy;
    - v. Gastrostomy feeding when complicated by frequent regurgitation and/or aspiration; or is on continuous feeding for more than 4 hours at a time;
    - vi. A seizure disorder manifested by frequent prolonged seizures requiring emergency administration of anticonvulsant medication in the last four months;
    - vii. Medical and/or intense therapeutic services for the technology dependent child who requires a medical device that the Federal Food and Drug Administration has classified pursuant to 21 C.F.R. 860.3, as amended and supplemented, as a life-supporting or life-sustaining device that is essential to, or that yields information that is essential to, the restoration or continuation of a bodily function important to the continuation of human life.
2. These services must be provided if the life-sustaining device is necessary to compensate for the loss of a vital function, to avert death or further disability, and if the use of the device requires ongoing skilled nursing intervention.

During the Fair Hearing, Nurse Selibovskaya testified that she performed an assessment of Petitioner in her home using the New Jersey Choice Assessment tool. ID at 2. Based on her observations of Petitioner, her discussions with Petitioner's mother, A.M., and the November 1, 2024 Physician Certification for Children Requesting Services in the Community Through MLTSS, of Larnie J. Booker, M.D., Petitioner's treating physician, which states that the "[c]hild does not appear to meet the required criteria,"

Nurse Selibovskaya concluded that Petitioner is not clinically eligible for the Pediatric MLTSS program. ID at 2-3.

Dr. Gianoukakis, who is certified in family practice, testified for Petitioner. ID at 3. Dr. Gianoukakis testified that he began treating Petitioner two days before the hearing and is not her primary physician. Ibid. Dr. Gianoukakis stated that he is not a specialist in CTCF-related disorders. Ibid. He also stated that he reviewed the Physician's Certification signed by Dr. Booker, and that Dr. Booker was "rushed" when he checked the box that Petitioner did not meet the criteria for Pediatric MLTSS. Ibid.

In the Initial Decision, the Administrative Law Judge (ALJ) found as fact that both witnesses agreed that Petitioner does not use a ventilator, does not have an active tracheostomy, does not need deep suctioning, does not require around-the-clock nebulizer treatments with chest physiotherapy, is not on continuous feeding for more than four hours at a time, nor does she use gastrostomy feeding, does not have a seizure disorder manifested by frequent, prolonged seizures requiring emergency administration of anticonvulsant medication in the last four months, is not technology-dependent and does not require a life-supporting or life-sustaining device necessary to compensate for the loss of a vital function, to avert death, or further disability, and does not use a device that requires ongoing skilled nursing intervention. ID at 3-4. In conclusion, the ALJ found that OCCO's decision to deny Pediatric MLTSS services to Petitioner was proper as both witnesses agreed that Petitioner's condition does not satisfy the clinical eligibility criteria. ID at 6.

I concur with the ALJ's determination that according to the evidence and testimony presented, Petitioner does not meet the clinical criteria for Pediatric MLTSS services as

outlined in N.J.A.C. 10:166-2.1 or the New Jersey FamilyCare Comprehensive Demonstration. Petitioner's own treating physician indicated in the Physician's Certification that Petitioner did not meet the criteria for Pediatric MLTSS and Dr. Gianoukakis' assumption that Dr. Booker was "rushed" when filling out the form is not sufficient. While Petitioner's medical conditions and needs must not be minimized, unfortunately the evidence does not support a finding that Petitioner meets the criteria as set forth in N.J.A.C. 10:166-2.1. Petitioner may request a reassessment should Petitioner feel same is appropriate based on a change in need.

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 OCTOBER 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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