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

P.V.,

PETITIONER,	ADMINISTRATIVE ACTION
v.	FINAL AGENCY DECISION
DIVISION OF MEDICAL ASSISTANCE	OAL DKT. NO. HMA 15769-25
AND HEALTH SERVICES AND	
OFFICE OF COMMUNITY CHOICE	
OPTIONS,	
RESPONDENTS.	

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 December 1, 2025, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt.

This matter arises from the Division of Aging Services' (DoAs) May 19, 2025, denial of clinical eligibility under N.J.A.C. 10:166 and New Jersey's NJ FamilyCare Comprehensive Demonstration, Section 115. (R-4). On May 13, 2025, a New Jersey Choice Assessment was conducted by Kathleen Laterza, 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 individual:

- 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.<sup>1</sup>

During the fair hearing, Petitioner testified that he has had some issues with the nursing facility, he is being illegally retaliated against, and his MLTSS is being vindictively taken from him to get him out of the nursing facility. ID at 7. Petitioner has primary progressive multiple sclerosis, which is progressive and has no cure. ID at 8. Regarding his ADLs, Petitioner stated that he can barely walk as he has foot drop, cannot put pants or shoes on without assistance, cannot clean himself after using the bathroom and is incontinent of bowel and bladder. Ibid. Petitioner further stated that he did not tell Nurse Laterza that he was independent in ADLs. Ibid. Petitioner testified that he has severe cognitive impairment with memory issues. Ibid.

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

Nurse Laterza also testified during the fair hearing and stated that Petitioner was cognitively intact, able to follow along with the reason why she was there, was able to ask and answer questions appropriately and provide details and relevant information and was able to independently perform all ADLs. ID at 6-7. Nurse Laterza spoke with six to eight nurses and nursing facility staff, who all confirmed that Petitioner was independent in all ADLs. ID at 6. Nurse Laterza testified that Petitioner said he was able to maintain his ADLs and that she observed him move from lying in bed to sitting on his bed but that he was not willing or able to stand because he had a sore on his leg. ID at 7. She stated that Petitioner also informed her that he goes to other patients' rooms to assist them and that he has gone to the social worker's office. Ibid.

In the Initial Decision the ALJ found that although Petitioner testified that he is incontinent of bowel and bladder and is unable to clean himself, and that he is barely able to walk or dress himself, these assertions are not supported by the record. ID at 12-13. The ALJ found that Nurse Laterza did not observe any assistance to Petitioner, multiple nursing facility staff members reported that Petitioner was not being assisted with ADLs, and progress notes reflect that Petitioner was not being assisted with his ADLs. ID at 13. The ALJ concluded that Petitioner was cognitively intact and not dependent upon the nursing facility for his ADLs, and therefore, 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. Petitioner demonstrates the ability to independently perform their ADLs, does not have a cognitive impairment impacting decision making and failed to meet the clinical criteria for nursing

facility level of care.

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision in this matter. However, Petitioner can request a reassessment to determine if his medical condition has changed since the May 2025 assessment.

THEREFORE, it is on this 21st day of NOVEMBER 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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