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

T.F.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OFFICE OF COMMUNITY CHOICE

OPTIONS,

RESPONDENT.

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 16121-2024**

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. The Petitioner timely filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 26, 2025, in accordance with an Order of Extension.

The matter arises from the New Jersey Office of Community Choice Options (OCCO) September 26, 2024 denial of clinical eligibility for Nursing Facility Level of Care (NF) under N.J.A.C. 8:85-2.1. Petitioner was assessed on March 26, 2024 by Shray Williams, RN, RSN, (Williams) to determine their eligibility for nursing facility level of care. ID at 2.

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 involved in an auto collision with a truck in February 2024 as a pedestrian. ID at 2. They were subsequently admitted to Sinai Post-Acute Nursing and Rehab Center. Ibid. At the time of admission, the Petitioner was malnourished, had multiple lacerations on their head, subdural hemorrhaging, intracranial injuries, multiple rib fractures, lung contusion, sacrum fractures on left pubis, pelvis, left patella, right tibia and right fibula. Ibid. As a result of their injuries, the Petitioner required assistance with all activities of daily living including bathing, dressing and using the toilet. Ibid. The Petitioner was also unable to ambulate without assistance or a wheelchair. Ibid. In February 2024, the Petitioner qualified for Nursing Facility services. Ibid.

Ashana Brown, RSN, (Brown) conducted a clinical assessment on August 21, 2024 to determine if the Petitioner still qualified for NF services. Ibid. Brown found that the Petitioner was cognitively independent and capable of making reasonable decisions consistently. Their procedural and short-term memory was intact. They also understood and expressed ideas, and did not have any speech impediments. Brown also found that the Petitioner's recollection of words, events, dates, and times were correct on their first attempt. Ibid. According to Brown, the Petitioner was able to eat independently, without supervision or assistance. Id. at 3. They were also completely independent in bathing, dressing, toileting, transferring from chairs to beds, moving from side to side while in bed, brushing their teeth, shaving, washing and drying themselves. Ibid. However, Brown did report that the Petitioner had pain stemming from the 2024 accident, but it was being managed with medication. Ibid.

In the Initial Decision the Administrative Law Judge (ALJ) found that when the Petitioner was admitted to the Sinai Post-Acute Nursing and Rehab Center in 2024, they met all the criteria for NF services. Ibid. From the time Petitioner was admitted in February 2024 until August 21, 2024, when the assessment was conducted, the Petitioner made significant medical progress in healing multiple fractures and contusions. Id. at 4. The improvement in their medical condition resulted in an improvement in their ability to care for themselves. Ibid. OCCO conducted a complete evaluation of the NF service and assistance required by the Petitioner in August of 2024. Ibid. The assessment found that the Petitioner made complete progress in their activities of daily living and was fully independent. As such the ALJ concluded that the OCCO was correct in determining that the Petitioner no longer met the criteria for clinical eligibility for NF services under N.J.A.C. 10:166-2.1. Ibid. I agree.

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 can eat and feed themselves, bathe and dress their upper and lower body, brush their teeth, shave, use the toilet, ambulate from sitting to standing to lying down, and move around from side to side on his bed. The Petitioner does not require any assistance medically or with the activities of daily living and therefore, they should be terminated from receiving NF services.

In their filed exceptions, the Petitioner argues that they could still "use more therapy" because they "have certain issues with [their] knees and legs," including plates in screws in their legs, not being able to bend their knees "all the way," and legs giving out if they "stand too long on them." Petitioner Exceptions at 1. However, none of the issues the Petitioner stated in their exceptions rise to the level of being "cognitively impaired or physically dependent requiring assistance," as required by N.J.A.C. 10:166-2.1. The Petitioner also argues in their exceptions, that in order to discharge them from a nursing facility, the facility has to "guarantee a safe discharge," and satisfy the proper notice requirements. Petitioner Exceptions at 2. However a nursing facility discharge is not at issue in this appeal. This appeal concerns whether OCCO properly concluded that the Petitioner is no longer clinically eligible for 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 August 2024 assessment. 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.

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 23rd day of June 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