

Nurse (Nurse Dokun), at the facility where Petitioner resided.² (R-14). Upon completion, 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). Ibid. The Initial Decision upheld the denial as the Administrative Law Judge (ALJ) found that Petitioner was not clinically entitled to nursing facility services.

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 NF [nursing facility] services described in N.J.A.C. 10:166-2.2." 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 (a)(1).

Further, pursuant to NJ FamilyCare Comprehensive Demonstration, Section 1115 adult (ages twenty-one and older) individuals must be clinically eligible for MLTSS

² It should be noted the date reflected on the November 2024 assessment differs from the date set forth in OCCO's denial letter and November assessment narrative as November 25, 2024, and the assessment date reflects November 26, 2025. R-5, R-14. However, these typographical differences in dates would not change the outcome of this case.

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.³

Here, Petitioner is a 75-year-old male who suffers from alcohol abuse, type 2 diabetes mellitus without complications, seizures and cellulitis. R-14. As noted in the assessment narrative Petitioner performed all ADLs independently, including eating, dressing, locomotion, toileting, bathing, transferring and bed mobility. Ibid. The assessment also notes that Petitioner demonstrated no cognitive problems with either short or long-term memory, was able to recall his experience with his girlfriend when he was sick and able to recall the three words (book, table and hat) presented within 5 minutes. Ibid. Petitioner does his own shopping for snacks and clothing and goes out every day from 9:00 a.m. to 3:30 p.m. and was not taking medication at the time of the assessment. Ibid. Based on these facts, Petitioner was determined ineligible for nursing facility level of care. R-5.

Petitioner appealed OCCO's ineligibility determination, and the matter was transferred to the Office of Administrative Law (OAL) wherein a hearing was held on

³ New Jersey FamilyCare Comprehensive Demonstration Approval Period: April 1, 2023, through June 30, 2028.

August 4, 2025. ID at 2. During the OAL hearing, Nurse Dokun, R.S. and A.R. provided testimony. Nurse Dokun and R.S. testified for OCCO and A.R., Petitioner's niece and Designated Authorized Representative testified on his behalf. ID at 17. Nurse Dokun testified that she performed the New Jersey Choice assessment and checked Petitioner's cognition by asking Petitioner some questions. ID at 7. Nurse Dokun also testified that she waited more than 2 hours for Petitioner to return because he was out in the community when she arrived. Ibid. Nurse Dokun further testified that Petitioner was observed to be walking well and that Petitioner explained he was late because he had gone to see his girlfriend. Ibid. Lastly, Nurse Dokun testified that Petitioner informed her that he was able to do all of his ADLs on his own, that he did not want to be homeless, did not need help and is not taking any medication. Ibid.

R.S. testified that Petitioner's eligibility was based on the November 25, 2024, assessment and that the other three assessments were conducted by the MCO not OCCO. ID at 10. R.S. also testified that the reason Petitioner had been approved for the April 2025 assessment was because at that time he needed supervision in 3 or more of the ADLs and that his cognition was worse than it was during the November 2024 assessment. Ibid. Finally, R.S. testified that the letter prepared by Petitioner's physician was sent after the November 2024 assessment. Ibid.

A.R., testified that the "assessment narrative is incorrect relative to dates and facility." ID at 8. A.R. also testified that the April 2024 assessment is the same as the following two assessments and Petitioner was approved for MLTSS in April 2024. Ibid. A.R. further testified that the Acclaim doctor and psychiatrist visited Petitioner, but that information is not included in the Abbreviated Clinical assessment. Ibid. In addition, A.R. testified that when Petitioner had been approved, he showed minimal impairment in decision making, was dependent on medication and needed limited assistance with

bathing and locomotion, which A.R. believes is still needed. Ibid. In the Initial Decision, the ALJ determined that NF residents have severe cognitive problems and are dependent on several activities of ADLs to include bathing, dressing, toilet use, transfer, locomotion, bed mobility and eating. ID at 14. Based on the evidence and testimony, the ALJ concludes that while it is possible that Petitioner's cognitive ability has changed since the November 2024 assessment considering Dr. Elamir's letter dated July 24, 2025, indicating dementia, the assessment performed in November 2024 shows that Petitioner had no cognitive issues, was able to perform independently and was independent in all ADLs. ID at 15. As such, I concur with the ALJ's determination that according to the evidence presented, Petitioner was not eligible for NF level of care. Ibid. At the time of the evaluation, Petitioner demonstrated the ability to independently perform all ADLs, had no cognitive impairments 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 November 2024 assessment.

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

ORDERED:

That the Initial Decision is hereby ADOPTED.



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