

This matter arises regarding the Office of Community Choice Options' (OCCO) May 21, 2025, 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 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 demonstrating that the beneficiary requires, at a minimum, basic NF services. 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 (ADLs), such as bathing, dressing, toilet use, transfer, locomotion, bed mobility, and eating. N.J.A.C. 8:85-2.1(a).

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.

Petitioner has resided at the nursing facility since November 2023. ID at 2. By letter dated May 21, 2025, Petitioner was informed that they were not clinically eligible for

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

NFLOC in a nursing facility or the community, as they did not meet the NFLOC qualifications in accordance with N.J.A.C. 10:166 and New Jersey's NJ Family Care Comprehensive Demonstration, Section 1115. (R-6.) Petitioner filed a request for a fair hearing. ID at 2. The hearing was conducted on November 21, 2025. Ibid.

At the hearing, OCCO presented testimony from Alexis Flores-Whyte, the OCCO fair hearing liaison, and Alla Selibovskya (Selibovskya), R.N., the assessing nurse. Both testified that Petitioner underwent a clinical assessment on May 21, 2025, which demonstrated that Petitioner was independent in the majority of ADLs, including eating, toileting, transfers, walking, and personal hygiene. ID at 2-4.

Selibovskya testified that her in-person evaluation at the nursing facility revealed that Petitioner ambulated independently with a walker, managed their own medications, made their own medical appointments, and drove when needed. (R-3.) Although Petitioner reported experiencing dizziness while showering and some short-term memory concerns, facility staff confirmed that Petitioner remained independent, including with bathing and other personal care. Ibid. The medical record, including documentation from Petitioner's psychiatrist and the applicable service plan, further supported the conclusion that Petitioner required only limited assistance with tasks such as meal preparation and shopping. Ibid.

Petitioner testified on their behalf, explaining that they sold their home, spent down assets, and moved into the facility with the expectation of qualifying for Medicaid benefits. ID at 4. Petitioner expressed fear of displacement due to financial hardship and emphasized their desire to remain in their current residence. Ibid. While acknowledging independence in decision-making, driving, and managing personal affairs, Petitioner reported urinary and occasional fecal incontinence and a prior brain injury. ID at 5.

The Administrative Law Judge (ALJ) found that the Petitioner has a partial deficit in their short-term memory; however, Petitioner is independent in all activities of daily living. ID at 7. Pursuant to N.J.A.C. 10:166, Petitioner's condition does not fall within any of the criteria that are required for clinical eligibility for MLTSS or NFLOC. Ibid.

I concur with the ALJ's findings and conclusions. 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. In this case, the OCCO assessment demonstrated that Petitioner did not require such assistance, and at most, needed limited support for meal preparation and shopping.

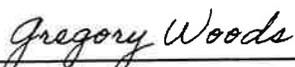
The testimony and documentary evidence, including Petitioner's own statements, support the determination that Petitioner does not meet the clinical threshold for NFLOC. While I am mindful of Petitioner's financial hardship and desire to remain in their current living arrangement, eligibility determination must be based solely on regulatory criteria.

Accordingly, I FIND that OCCO properly denied Petitioner's clinical eligibility for NFLOC pursuant to N.J.A.C. 10:166 and New Jersey FamilyCare Comprehensive Demonstration, Section 1115.

THEREFORE, it is on this 16th day of JANUARY 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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