



This matter arises from the Office of Community Choice Options' (OCCO) denial of Petitioner's clinical eligibility under N.J.A.C. 8:85-2.1<sup>1</sup> 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 is determined by professional staff designated by the Department, based on a comprehensive needs assessment that demonstrates 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 (ADL), like 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.

By letter dated November 7, 2024, Petitioner was notified by the Department of Human Services, Division of Aging Services, that Petitioner was not clinically eligible for

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

NFLOC in a nursing facility or the community because 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-2.)

Petitioner filed a request for a fair hearing. ID at 2. The hearing was conducted on October 21, 2025. Ibid.

During the hearing, Candice Lumax (Lumax), a Community Choice Counselor from OCCO, who assessed Petitioner, testified on behalf of OCCO that Petitioner was awake, oriented, had no memory issues, and was fully independent in ADLs, including eating, dressing, and toileting on the June 6, 2024, assessment. ID at 2. Lumax further testified that medical records reviewed by OCCO confirmed that although Petitioner has some medical conditions, none required nursing facility-level care. Ibid.

Petitioner's sister and designated authorized representative, P.S., testified on Petitioner's behalf that Petitioner has multiple mental and physical conditions and should remain in the assisted living facility, where Petitioner has resided since October 2020, because of the safety and care provided there. ID at 2.

P.S. also provided a letter summarizing her testimony. (P-1.) In her letter, P.S. explained that she has cared for Petitioner since the death of their mother. Ibid. Now 78 years old, she and her husband have significant health issues, making it difficult and stressful to continue caring for Petitioner. Ibid. P.S. further stated that Petitioner has multiple serious physical and mental conditions, including significant cognitive and executive-function impairments, and possibly undiagnosed autism. Ibid. According to P.S., Petitioner struggles to follow directions, manage finances, and live independently, and is unable to sustain employment. Ibid. Petitioner's only income is \$1,217 per month in Social Security benefits, which P.S. stated is insufficient for basic living expenses. Ibid.

P.S. requests that Petitioner's case be reevaluated so they can remain in the current facility. Ibid.

The Initial Decision upheld the denial determination. The Administrative Law Judge (ALJ) stated that Petitioner has resided in an assisted living facility since October 2020, initially due to minor medical issues, and has continued reside there due to COVID restrictions. ID at 3. The ALJ found that Petitioner is fully independent, able to ambulate independently, and capable of performing all ADLs without assistance. Ibid.

The ALJ further explained that to qualify for a NF level of assistance, an applicant must have deficits in at least three of the activities for daily living mentioned above, and/or severe cognitive impairments that compromise their personal safety in order to qualify for assistance. Ibid. In the instant matter, the assessment, unchallenged by credible evidence, demonstrated that the Petitioner does not require this level of care and is capable of performing ADLs independently. Ibid. The ALJ concluded that Petitioner does not meet the criteria set forth at N.J.A.C. 10:166 for NFLOC, based upon the testimony and the assessment provided by OCCO, which the ALJ found competent, persuasive and reliable. ID at 4. I concur.

Petitioner was assessed by the OCCO and determined to be independent in all ADLs. P.S.'s testimony and letter expressed concern regarding Petitioner's physical and mental conditions, as well as Petitioner's limited financial resources. However, clinical eligibility for NFLOC requires unstable medical, emotional/behavioral, and psychosocial conditions necessitating ongoing nursing assessment, intervention, and/or referrals to other disciplines for evaluation and appropriate treatment. Although Petitioner has medical conditions, none qualify Petitioner for NFLOC.

Accordingly, the Initial Decision appropriately affirmed the denial of benefits based on OCCO's assessment that Petitioner did not meet the clinical criteria for NFLOC. OCCO therefore properly denied Petitioner's clinical eligibility under N.J.A.C. 10:166 and the terms of New Jersey's Comprehensive Demonstration.

THEREFORE, it is on this 9th day of FEBRUARY 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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