

Choice Assessment was conducted by Marilyn Zic, a Registered Nurse (Nurse Zic), at the facility where Petitioner resided. (R-2). Upon completion, OCCO determined that Petitioner was ineligible for nursing home level of care finding that Petitioner does not meet the clinical eligibility required for NF level of care under the MLTSS program. Ibid. The Initial Decision upheld the denial as the Administrative Law Judge (ALJ) found that Petitioner had not satisfied the criteria set forth in N.J.A.C. 10:166-2.1 and that Petitioner had failed to prove that OCCO was incorrect to deny MLTSS eligibility. ID at 6, 7.

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 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.²

Here, Petitioner is a 69-year-old male who has been diagnosed with diabetes mellitus with neuropathy, atrial fibrillation, COPD, hypertension and hyperlipidemia. P-1. On December 1, 2022, Petitioner was enrolled in the MLTSS program. ID at 3. At that time, Petitioner met clinical eligibility as needing hands on assistance with three ADLs consistent with nursing facility level of care. Ibid. On April 9, 2025, Aetna conducted its annual clinical assessment and noted that Petitioner did not appear to meet the criteria for eligibility for MLTSS nursing facility level of care. Ibid. On April 21, 2025, Aetna sent a referral with its findings which triggered the need for an in-person assessment to determine if Petitioner was eligible for MLTSS. Ibid.

On May 29, 2025, Nurse Zic conducted an assessment on Petitioner utilizing the NJ Choice assessment tool. R-2. As noted in the assessment narrative, Petitioner performs all ADLs independently, including eating, bathing, dressing, transferring and taking medications. Ibid. The assessment also notes that Petitioner's short-term memory is intact as evidenced by his ability to recall three unrelated items (apple, green and glass) after 5 minutes that he was required to repeat. Ibid. Petitioner drives to church every

² New Jersey FamilyCare Comprehensive Demonstration Approval Period: April 1, 2023, through June 30, 2028.

Sunday, doctor's appointments and occasionally drives to the supermarket. Ibid. Based on these facts, Petitioner was determined ineligible for nursing facility level of care. Ibid.

Petitioner appealed OCCO's ineligibility determination, and the matter was transferred to the Office of Administrative Law (OAL) wherein a hearing was held on October 29, 2025. ID at 2. During the OAL hearing, Nurse Zic, T.Y., executive director of Mira Vie and Petitioner provided testimony. ID at 4, 8. Nurse Zic testified for OCCO and T.Y testified on behalf of Petitioner. Ibid. Nurse Zic testified that Petitioner can live independently and performs all ADLs without assistance. ID at 4. Nurse Zic also testified that Petitioner has no impairment of cognition and that his short term and long-term memory is intact as he is able to drive his vehicle on short trips, manage his finances, use a computer and cell phone. ID at 4. Nurse Zic further testified that she spoke with the charge nurse of Mira Vie and T.Y. who both agreed Petitioner can perform ADLs safely outside of a medically supervised facility. Ibid. However, T.Y. cautions that Petitioner's "health is compromised and in an emergency absence of immediate treatment could have long term negative impacts." Ibid.

Petitioner testified that he previously worked as a social worker and knows how Medicaid assessments should be done. ID at 4. Petitioner also testified that Nurse Zic did not handle his assessment correctly and that her report is inaccurate. Ibid. Petitioner agreed that during the assessment he was able to perform ADLs which includes eating, bathing, dressing, toileting, walking without a cane or walker, transferring and driving his car. Ibid. After considering the evidence and testimony, the ALJ concludes that Petitioner has not proven by a preponderance of the evidence that OCCO was incorrect to deny Petitioner's eligibility for MLTSS. ID at 7. As such, I concur with the ALJ's determination that according to the evidence presented, Petitioner was not eligible for nursing facility 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.

THEREFORE, it is on this 4th day of FEBRUARY 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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