



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

SHEILA Y. OLIVER  
Lt. Governor

CAROLE JOHNSON  
Commissioner

JENNIFER LANGER JACOBS  
Assistant Commissioner

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

E.M.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OFFICE OF COMMUNITY CHOICE

OPTIONS,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 13077-2019

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is January 30, 2020 in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head

to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision was received on December 16, 2019.

The matter arises regarding the termination of Petitioner's clinical eligibility under N.J.A.C. 8:85-2.1. 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 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 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. 8:85-2.1(a)1.

Petitioner was assessed by Office of Community Choice Options (OCCO) in August 2019 at the nursing facility where he resides. Petitioner had been previously found to be in need of nursing home level of care but his managed care organization's reassessment determined he no longer met the level of care. This assessment by an OCCO nurse included an in-person interview as well as review of medical chart records and information from the facility staff. R-3.

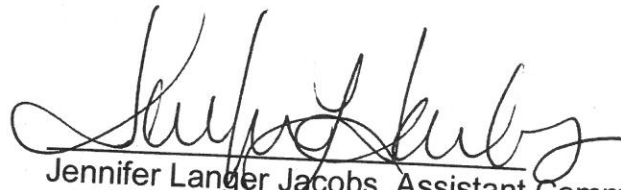
The assessment did not show that Petitioner had deficits in at least three of the activities of daily living (ADLs). To the extent Petitioner needs assistance with cooking, meal preparation and dressing his lower body, they do not rise to the level to qualify for nursing home level of care. Petitioner did not dispute the assessment. Thus, based on my

review of the record as well as the findings set forth in the Initial Decision, I hereby uphold the termination of Petitioner's clinical eligibility.

THEREFORE, it is on this <sup>9th</sup> day of JANUARY 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance  
and Health Services