



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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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

F.B.,

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 12002-2019

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 February 27, 2020 in accordance with an Order of Extension.

The matter arises regarding the termination of Petitioner's clinical eligibility under

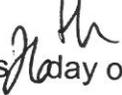
N.J.A.C. 8:85-2.1. The mechanism for determining clinical eligibility is a pre-admission screening (PAS) that is completed by "professional staff designated by the Department, based on a comprehensive needs assessment which demonstrates that the recipient requires, at a minimum, the basic NF services 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 June 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 annual reassessment determined he no longer met the level of care. The assessment by the OCCO nurse included an in-person interview as well as review of medical chart records and information from the facility staff. R-3. There was also a review of the Minimum Data Set (MDS) assessment that is a federally mandated process for clinical and comprehensive assessment of all residents' functional capabilities in Medicare and Medicaid certified nursing homes. See 42 CFR § 483.315.

The OCCO assessment failed show that Petitioner had deficits in at least three of the activities of daily living (ADLs). To the extent Petitioner needs limited assistance in the form of set up help with eating, and supervision with personal hygiene, bathing dressing his lower body, they do not rise to the level to qualify for nursing home level of care. The MDS assessments available at the time of the assessment confirmed that Petitioner did not need

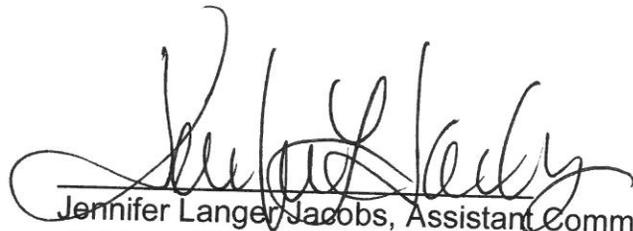
nursing home level of care.

Petitioner argued that the MDS was incorrect and proffered that the document would be amended. As evidence of this, the nursing facility produced Annie Newton, a certified nursing aide who testified that she was assisting Petitioner many times during the week. ID at 7. However, the documentation for the care provided to Petitioner during that time does not reflect Ms. Newton provided any of those services. The progress notes from the Interdisciplinary Team (IDT) from May 2019 through October 2019 show Petitioner remained independent in his ADLs and needed only supervision and set up for dressing and set up help for eating. R-11. 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  day of FEBRUARY 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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