

State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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SARAH ADELMAN
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

S.W.

PETITIONER,

V.

SOMERSET COUNTY BOARD OF SOCIAL SERVICES.

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 09833-20

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence and the Initial Decision in this matter. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is April 21, 2022 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 the agency's receipt. The Initial Decision in this matter was received on March 7, 2022.

This matter concerns the request for a caregiver exemption to permit the transfer of Petitioner's home to her son. On September 24, 2020, Somerset County determined that Petitioner did not meet the requirement for the caregiver exemption because documents did not show the level of care required for two years prior to applying for Medicaid. Petitioner

passed away on April 24, 2020.

The New Jersey regulations regarding the caregiver exemption are based on the

federal statute. Compare 42 <u>U.S.C.</u> § 1396p(c)(2)(A)(iv), <u>N.J.A.C</u>. 10:71-4.7(d) and <u>N.J.A.C</u>.

10:71-4.10(d). The statute provides that if the "equity interest in a home" is transferred by

title to a son or daughter who provided such care that prevented institutionalization for at

least two years, the transfer is exempt from penalty. The care provided must exceed normal

personal support activities and Petitioner's physical or mental condition must be such as to

"require special attention and care." Id. It is Petitioner's burden to prove that he is entitled

to the exemption.

Petitioner was admitted to a nursing facility in 2018. At the time, she was

approximately 89 years old. Petitioner's son and daughter-in-law resided with her for thirty-

nine years prior to her institutionalization. Petitioner's doctor, son (K.W.) and daughter-in-

law (J.W.) testified at the hearing. Based on their testimony and the documentary evidence

provided, I agree with the ALJ that K.W. and J.W. provided care for Petitioner beginning in

2013 that exceeded normal support activities and delayed her admission to a nursing facility.

Caregiver exemption cases are extremely fact sensitive. Based on the evidence in the

record before me and the applicable law, I hereby ADOPT the Initial Decision finding that the

specific facts in the record and the circumstances of this case warrant an exemption from the

transfer penalty.

THEREFORE, it is on this 13th day of APRIL 2022

ORDERED:

That the Initial Decision is hereby ADOPTED.

Jennifer Langer Jacobs, Assistant Commissioner

Division of Medical Assistance

and Health Services