



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

E.T.

PETITIONER,

ADMINISTRATIVE ACTION

V.

FINAL AGENCY DECISION

DIVISION OF MEDICAL ASSISTANCE

OAL DKT. NO. HMA 16072-2016

AND HEALTH SERVICES &

CAMDEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

As Director of 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 December 1, 2016, in accordance with an Order of Extension.

Petitioner applied for Medicaid benefits in January 2013. She had entered a nursing facility in December 2011 after a hospitalization due to a fall. Petitioner requested a caregiver exemption whereby she could transfer her home to her son

without incurring a transfer penalty. Camden County denied the request and Petitioner sought a fair hearing.

The New Jersey regulations regarding the caregiver exemption are based on the federal statute. Compare 42 U.S.C. § 1396p(c)(2)(A)(iv), N.J.A.C. 10:71-4.7(d) and N.J.A.C. 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.

In this matter, the facts show that Petitioner's son moved in his mother and his late father in 2008. Petitioner was 84 years old at the time and became widowed in March 2008. She was diagnosed with dementia that year and restricted to the first floor of the home due to compression fractures in her back. This decline resulted in Petitioner needing assistance in all activities of daily living during for more than two years prior to becoming institutionalized in December 2011.

Based on my review of the record and the applicable law, I hereby ADOPT the Initial Decision finding that the specific facts in the record and circumstances of this case warrant an exemption from transfer penalty.

THEREFORE, it is on this *30th* day of NOVEMBER 2016

ORDERED:

That the Initial Decision is hereby ADOPTED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services