



State of New Jersey

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

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Lt. Governor

MEGHAN DAVEY  
Director

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

E.C.	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
V.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 15633-16
	:	
AND HEALTH SERVICES &	:	ON REMAND HMA 16475-15
	:	
PASSAIC 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 February 27, 2017, 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 in this matter was received on January 12, 2017.

Petitioner applied for Medicaid benefits on June 30, 2015. She had entered a nursing facility in May 22, 2015 after being hospitalized for a bladder infection. Petitioner requested a caregiver exemption whereby she could transfer her home to her daughter without incurring a transfer penalty. Passaic 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 daughter, L.C., moved in with her mother in August 2012. For several years prior to this, L.C., helped her mother to meet basic needs, such as showering, food shopping, laundry and bill paying. Petitioner's employer allowed her to work from home as needed, which permitted her to adjust her schedule to accommodate Petitioner's needs as she declined. This decline resulted in Petitioner needing assistance in all activities of daily living for more than two years prior to becoming institutionalized. Petitioner needed assistance with bathing, dressing, toileting, walking, transferring, and climbing stairs. She could not follow medication protocol and had not prepared food for a number of years.

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

THEREFORE, it is on this 17<sup>th</sup> day of FEBRUARY 2017,

ORDERED:

That the Initial Decision is hereby ADOPTED.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services