



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

PO Box 712

TRENTON, NJ 08625-0712

PHILIP D. MURPHY
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**

V.C.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES AND :

CUMBERLAND COUNTY BOARD OF :

SOCIAL SERVICES, :

RESPONDENTS. :

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 13990-2019

ON REMAND HMA 06143-2019

As Assistant Commissioner of 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 July 27, 2020 in accordance with an Order of Extension.

The matter arises regarding Petitioner's request for a caregiver exemption so as to remove the penalty due to the January 1, 2019 transfer of her home valued at \$160,299 to

her daughter. There is another penalty for \$3,267.72 in unaccounted proceeds of a life insurance policy that Petitioner does not contest. The sole issue is with regard to the application of the exemption on the transfer of her home to her daughter.

In the prior matter, docketed at HMA 6143-2019, the Final Agency Decision remanded the matter as the finding that Petitioner met the exemption by her daughter providing supervision of "medication administration, supervision of her finances and ensuring" someone was watching her did not comport with nursing home level of care. HMA 6142-2019 ID at 13. These tasks, absent specificity, can describe regular assistance an adult child might provide to a parent. The support required to meet the caregiver exemptions must exceed normal supports and be such that it permitted Petitioner to avoid institutionalization for the full two years.

Petitioner's institutionalization began in December 2018. This sets the two years required for the caregiver exemption to begin December 2016. The remand sought to provide findings of the tasks performed and the hours required during this time related to Petitioner's condition. There was also to be additional information about the payments made to caregivers and about her condition from March 2017 through March 2018 when there was no medical documentation.

To that end, Petitioner provided additional testimony from the caregiver and the daughter about the tasks performed during the two year period. There was also additional financial records setting forth the payment of caregivers. The additional medical records were also presented from 2017 to 2018 that showed Petitioner having continuous need for care in order to prevent institutionalization. Petitioner's needs stemmed from her dementia diagnosis as well as violent psychotic episodes documented in medical records and police reports.

The New Jersey regulations regarding the caregiver exemption are based on the federal statute. Compare 42 U.S.C. § 1396p(c)(2)(A)(iv) 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. It is Petitioner's burden to prove that she is entitled to the exemption.

Based on my review of the record and the applicable law, I hereby ADOPT the Initial Decision's thorough and detailed findings that due to the specific facts and circumstances of this case set forth in the record, an exemption from transfer penalty for the home transferred to Petitioner's daughter is warranted.

THEREFORE, it is on this *20* day of JULY 2020

ORDERED:

That the Initial Decision is hereby ADOPTED.



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