

Petitioner applied for Medicaid benefits on October 2014. She had entered a nursing facility in August 2014 after falling at home. Petitioner requested a caregiver exemption whereby she could transfer her home to her son without incurring a transfer penalty. Bergen 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, facing a breakdown of his marriage and an impending divorce, moved in his mother in 2007. Petitioner resides in the same town as Petitioner's estranged daughter-in-law. Petitioner was 85 years old at the time and widowed. She stopped driving after an accident in 2007 and started exhibiting signs of dementia. Petitioner's son had essentially retired at this point and had minimal employment as a jack-of-all trades for a nearby church or teaching tai-chi; both of which permitted him to adjust and reduce his schedule to accommodate Petitioner's needs as she declined. This decline resulted in Petitioner needing assistance in all activities of daily living during for more than two years prior to becoming institutionalized. She used a hospital bed, had walking aids and needed help toileting. 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 10th day of MARCH 2016

ORDERED:

That the Initial Decision is hereby ADOPTED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services