

passed away on April 24, 2020.

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. 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