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Governor

SHEILA Y. OLIVER Lt. Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
PO Box 712
Trenton, NJ 08625-0712

SARAH ADELMAN Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

W.W.,

PETITIONER,

٧.

MERCER COUNTY BOARD OF SOCIAL SERVICES.

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 03843-22

As Assistant Commissioner for 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. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is December 29, 2022 in accordance with an Order of Extension. The Initial Decision was received on September 29, 2022.

The matter arises from the Mercer County Board of Social Services' (MCBSS) April 14, 2022 denial of Petitioner's request for a caregiver exemption. The caregiver exemption permits the transfer without penalty of the applicant's home when an applicant needed institutional level care and that the care rendered by a child was to such an extent that it permitted the applicant to avoid institutionalization. N.J.A.C. 10:71-4.10(d)4. 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. The applicant's son or daughter must have "resid[ed] in the individual's home for a period of at least two years immediately before the date the individual becomes an institutionalized individual" and "provided care to such individual which permitted the individual to reside at home rather than in an institution or facility." N.J.A.C. 10:71-4.10(d)(4) (emphasis This exemption mirrors the federal Medicaid statute. added). 42 <u>U.S.C.A.</u> § 1396p(c)(2)(A)(iv).

The ALJ upheld the determination by MCBSS, and I see no basis to find otherwise. As noted in the Initial Decision, Petitioner became institutionalized in 2018 when she was became clinically eligible for Medicaid and began receiving home and community based services, specifically Adult Medical Day Care and Personal Care Assistant services. Therefore, Petitioner needed to present evidence that she required nursing facility level of care from July 2016 to July 2018. The record contains no such evidence. Additionally, the home and community based services Petitioner began receiving in September 2018, paid for by Medicaid, allowed Petitioner to remain in her home until November 2021.

THEREFORE, it is on this 29th day of DECEMBER 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Jennifer Langer Jacobs, Assistant Commissioner

Division of Medical Assistance

Jen Jacobs

and Health Services