



State of New Jersey

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

CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
V. Governor

VALERIE HARR
Director

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

A.M.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 16744-14
	:	
AND HEALTH SERVICES AND	:	
	:	
UNION COUNTY BOARD OF	:	
	:	
SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the documents in evidence. Neither Party filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is May 18, 2015 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. This Initial Decision in this matter was received on April 1, 2015.

This matter arises from the imposition of a four month, ten day transfer penalty in connection with Petitioner's September 26, 2012 Medicaid application. On September 26, 2012 Petitioner submitted an application for Medicaid benefits. On May 2, 2014, the Union County Division of Social Services denied the application for failure to provide verification. Petitioner appealed the denial and in August 2014, this office remanded the matter to Union County. On November 19, 2014, Union County found Petitioner eligible but imposed a transfer penalty.

Under the regulations, "[i]f an individual . . . (including any person acting with power of attorney or as a guardian for such individual) has sold, given away, or otherwise transferred any assets (including any interest in an asset or future rights to an asset) within the look-back period" a transfer penalty of ineligibility is assessed.¹ N.J.A.C. 10:71-4.10 (c). The presumption that the transfer of assets was done to qualify for Medicaid benefits may be rebutted "by presenting convincing evidence that the assets were transferred exclusively (that is, solely) for some other purpose." N.J.A.C. 10:71-4.10(j). It is Petitioner's burden to overcome the presumption that the transfer was done – even in part – to establish Medicaid. However, the presumption that the transfer of assets was done to qualify for Medicaid benefits may be rebutted "by presenting convincing evidence that the assets were transferred exclusively (that is, solely) for some other purpose." N.J.A.C. 10:71-4.10(j). In order to rebut the presumption, Petitioner must be apprised of the source of the alleged transfer. The denial notice issued by Union County does not provide Petitioner with dollar amount of the transfer or transfers in question. Furthermore, Union County was unable to explain

¹ Congress understands that applicants and their families contemplate positioning assets to achieve Medicaid benefits long before ever applying. To that end, Congress extended the look back period from three years to five years. Deficit Reduction Act of 2005, P.L. 109-171, § 6011 (Feb. 8, 2006).

the source of the four month and ten day penalty at the Office of Administrative Law hearing. Therefore, I am REMANDING the matter to the Office of Administrative Law (OAL) so that Union County can provide a case worker and supervisor to explain the transfer penalty assessed in the November 19, 2014 letter to Petitioner. Furthermore, Union County shall provide Petitioner with an amended notice identifying the source or sources of the transfer penalty in advance of the hearing.

I note also that the exhibits below identify a transfer of \$11,300 to Bernard Matsko, Jr. for personal services rendered. The exhibits state that all corresponding documents were provided to Union County with regard to this transfer. Yet, they are not included as part of the record. If Petitioner claims she is entitled to a caregiver exemption with regard to this transfer, she will have to provide the appropriate documentation. N.J.A.C.10:71-4.10(d). Accordingly, I am REMANDING this matter to the OAL for a copy of the caregiver agreement and proof that Petitioner received fair market value for the services provided.

THEREFORE, it is on this ^{13th} day of MAY 2015

ORDERED:

That the Initial Decision is hereby REVERSED; and

That this matter is REMANDED to the Office of Administrative Law for additional testimony and documentary evidence.



Valerie Harr, Director
Division of Medical Assistance
and Health Services