



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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KIM GUADAGNO
Lt. Governor

VALERIE HARR
Director

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

M.G.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
& HEALTH SERVICES and
CAMDEN COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 7800-2015
ON REMAND HMA 13047-2014

As Director 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. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is January 4, 2016, in accordance with an Order of Extension.

This matter concerns a series of transfers totaling \$114,917 from Petitioner's account from April 2008 through November 2012. As set forth in the prior FAD,

Petitioner is subject to penalty regarding those payments above \$500 a week and \$300 for weekends. The issue on remand was regarding how the payment rate was struck so as to determine if the rate was in accordance with fair market value. To that end Petitioner produced testimony regarding the cost of care such as afforded to Petitioner by Chrissa, her caretaker. I am satisfied that the record now demonstrates that Petitioner's payment of \$500 a week and \$300 a weekend was fair market value for the care provided.

However, Petitioner's transfers that were in excess of that amount are not for the fair market value proven and a penalty must be assessed. It has been established that "the applicant still bears the burden to establish the types of care or services provided, the type and terms of compensation, the fair market value of the compensation, and that the amount of compensation or the fair market value of the transferred asset." E.A. v. DMAHS and HCBSS, Docket No. A-2669-13T3, slip op. at 17-18 (July 20, 2015). Since the withdrawals were cash from an ATM or instruments payable to "cash," those withdrawals above the established fair market value rate have not been explained and are subject to penalty. As I noted in the prior FAD starting in June 2012, Petitioner's began withdrawing between \$630 and \$1,660 in cash with notations that the payments were for Chrissa. For example, in June 2012, the cash withdrawals totaled \$2,490 rather than \$2,000 at \$500 a week. R-1 at 29. In August 2012 five withdrawals totaling \$5,505 were made to Chrissa or \$3,505 above the weekly rate. In September 2012 only two payments were made of \$1660 and \$830 which would be \$490 over the \$500 a week rate Finally, in October 2012 four payments totaling \$4,150 were made to Chrissa.

Thus, with no documentation regarding the cash withdrawals above the \$500 a week rate, I FIND that Petitioner must be assessed a transfer penalty for uncompensated transfers of \$6,635.

Thus, I hereby ADOPT the Initial Decision upholding the fair market value of \$500 a week for care provided by Chrissa and RETURN the matter to Camden County to calculate the penalty period. Any further fair hearing on this issue may only encompass the calculation of the penalty as the finding that Petitioner's transfer above the fair market value is subject to penalty is a Final Agency Decision.

THEREFORE, it is on this <sup>22<sup>nd</sup></sup> day of DECEMBER 2015

ORDERED:

That the Initial Decision is hereby ADOPTED as to the findings that Petitioner established fair market value; and

That the matter is RETURNED to Camden County to calculate the length of the penalty for those transfers above the established fair market value.



Valerie Harr, Director  
Division of Medical Assistance  
and Health Services