



This matter arises from the Camden County Board of Social Services' (CCBSS) May 23, 2022 determination that Petitioner transferred \$587,080.88 during the look-back period and was therefore subject to a 1,765 day transfer penalty. Thereafter, amount of the transfer penalty was reduced to \$566,295.46 Medicaid law contains a presumption that any transfer for less than fair market value during the look-back period was made for the purpose of establishing Medicaid eligibility. See E.S. v. Div. of Med. Assist. & Health Servs., 412 N.J. Super. 340 (App. Div. 2010); N.J.A.C. 10:71-4.10(i). The applicant, "may rebut the presumption that assets were transferred to establish Medicaid eligibility 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 eligibility. 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).

The parties reached agreement on the amount of the transfer penalty. The only remaining issue regards the application of the appropriate penalty divisor to Petitioner's March 2017 Medicaid application. CCBSS calculated the penalty to be 1,765 based on the \$332.50 penalty divisor in effect at the time. However, effective April 1, 2017, the penalty divisor increased to \$432.95. Med-Com 17-09 addresses applications that are pending as of April 1, 2017.

For those cases pending on April 1, 2017, where the previous penalty divisor of \$332.50 was used to calculate the penalty period, it shall now be recalculated using the new daily divisor amount of \$423.95. However, eligibility may not be established prior to April 1, 2017, when applying the new daily figure for these pending cases.

Med-Com 17-09.

Petitioner's March 2017 application was still in pending status as of April 1, 2017. However, she was found eligible effective February 1, 2017, which was prior to the April 1, 2017 date denoted in Med-Com 17-09. Therefore, Camden County applied the appropriate penalty divisor of \$332.50, which results in a penalty of 1,765 days.

THEREFORE, it is on this 4th day of APRIL 2023,

ORDERED:

That the Initial Decision is ADOPTED and MODIFIED to reflect that Petitioner's transfer penalty of 1,335 days begins to run on April 1, 2017.



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Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance  
and Health Services