

less than fair market value, during the five-year look-back period. The transfer of assets stem from one check, issued on November 20, 2017 to a third party.

The Initial Decision determined that Petitioner had failed to rebut the presumption that the transfers were done for the purposes of qualifying for Medicaid benefits. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

In determining Medicaid eligibility for someone seeking institutionalized benefits, counties must review five years of financial history. 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. N.J.A.C. 10:71-4.10(c). “A transfer penalty is the delay in Medicaid eligibility triggered by the disposal of financial resources at less than fair market value during the look-back period.” E.S. v. Div. of Med. Assist. & Health Servs., 412 N.J. Super. 340, 344 (App. Div. 2010). “[T]ransfers of assets or income are closely scrutinized to determine if they were made for the sole purpose of Medicaid qualification.” Ibid. Congress’s imposition of a penalty for the disposal of assets for less than fair market value during or after the look-back period is “intended to maximize the resources for Medicaid for those truly in need.” Ibid.

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). The burden of proof in rebutting this presumption is on the applicant. Ibid. The regulations also provide that “if the applicant had some other purpose for transferring the asset, but establishing Medicaid eligibility appears to have been a factor in his or her decision to transfer, the presumption shall not be considered successfully rebutted.” N.J.A.C. 10:71-4.10(i)2.

Through letters dated April 7, 2020 and April 27, 2020, Morris County requested that Petitioner provide an explanation related to the purpose of the check at issue. R-2. Petitioner has not provided any explanation related to this transfer, and as found by the ALJ, there has been no demonstration that the transfer was made for Petitioner's care. Accordingly, I FIND that Petitioner failed to demonstrate that the check issued on November 17, 2017 in the amount of \$4,000 was made solely for a purpose other than to qualify for Medicaid benefits.

Thus, based upon my review of the record and for the reasons set forth herein, I hereby ADOPT ALJ's recommended decision. Further, I FIND that Petitioner has failed to rebut the presumption that the transfer at issue in this matter was made in order to establish Medicaid eligibility, and, therefore, the imposed penalty period is appropriate.

THEREFORE, it is on this 17th day of FEBRUARY 2023

ORDERED:

That the Initial Decision is hereby ADOPTED.

carol grant OBO
Jennifer Langer Jacobs

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