

reference. In a thorough, well-reasoned decision, the ALJ affirmed the 70-day transfer penalty. In reaching this decision, I accept the ALJ's fact-findings, which are based, in part, upon her assessment of the witnesses who testified at the administrative hearing. The fact-finder's assessment of the credibility of witnesses is entitled to deference by the reviewing agency head. Clowes v. Terminix, 109 N.J. 575 (1988).

At issue is a 70-day penalty imposed due to Petitioner's transfer of \$26,278 during the look-back period. 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).

On July 26, 2022, Petitioner filed a Medicaid application with the Ocean County Board of Social Services (OCBSS). As a result of the application process, OCBSS discovered that Petitioner made numerous transfers to her ex-husband, P.M., during the look-back period. The numerous transfers over the years included one large transfer of \$50,000 and several smaller transfers totaling \$22,480. The total amount transferred was \$72,480 until P.M. returned \$46,202 to the Petitioner. As a result, OCBSS reduced the transfer by that amount to net a penalty of \$26,278. I agree with the ALJ that Petitioner did not provide sufficient evidence to overcome her burden to show that the assets were transferred for a purpose other than to qualify for Medicaid benefits. There is no evidence in the record to support a finding that the \$50,000 transfer was a loan or that that February transfer was made in

satisfaction of any such loan. Additionally, there is no evidence in the record that the \$22,480 was transferred to P.M. for expenses as argued in exceptions.

Based upon my review of the record and for the reasons set forth in the Initial Decision, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ) and FIND that Petitioner has failed to rebut the presumption that the transfers at issue in this matter were made in order to establish Medicaid eligibility, and therefore, the imposed penalty period in this matter was appropriate.

THEREFORE, it is on this ^{4th} day of MAY 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Carol A Grant
OBO Jennifer
Langer Jacobs

Digitally signed by
Carol A Grant OBO
Jennifer Langer Jacobs
Date: 2023.05.04
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Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services