

## State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES PO Box 712

TRENTON, NJ 08625-0712

SARAH ADELMAN Acting Commissioner

JENNIFER LANGER JACOBS Assistant Commissioner

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

N.F.,

PETITIONER,	ADMINISTRATIVE ACTION
V.	FINAL AGENCY DECISION
UNION COUNTY BOARD	OAL DKT. NO. HMA 02120-22
OF SOCIAL SERVICES,	
RESPONDENTS.	

:

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the entire contents of the OAL case file. Respondent filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is January 23, 2023 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 the agency's receipt. The Initial Decision was received on December 8, 2022.

SHEILA Y. OLIVER Lt. Governor This matter arises from the Union County Board of Social Services' (UCBSS) March 14, 2022 determination that Petitioner transferred \$96,075 during the look-back period and was therefore subject to a 265 day transfer penalty. 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. <u>See E.S. v. Div. of Med. Assist. & Health Servs.</u>, 412 <u>N.J. Super.</u> 340 (App. Div. 2010); <u>N.J.A.C.</u> 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." <u>N.J.A.C.</u> 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.

On February 26, 2020, Petitioner sold the family home for \$200,000. The net proceeds of the house totaled \$192,151.29. Although Petitioner's husband had passed away three decades earlier, the house remained in his name. Petitioner's husband left a will, and letters testamentary were issued to their son, J.F., as executor of the will. (R-3) The will stated that his estate was to be divided equally between Petitioner and their two sons, J.F. and V.F. (R-3). The will was silent with regard to contingent beneficiaries. In 2001, V.F. passed away before the estate could be distributed. V.F. passed without a will. He was unmarried and had no children.

I agree with the ALJ that pursuant to the laws of intestacy, Petitioner should have received all of her late son's share of his father's estate. N.J.S.A. 3B:5-2.a and N.J.S.A. 3B:5-4. Accordingly, Petitioner was entitled to two-thirds of the proceeds of the sale of the house. Her son, J.F., was entitled to one-third. Any amount transferred from Petitioner to J.F. in excess of that one-third would constitute the transfer penalty.

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

ORDERED:

That the Initial Decision is ADOPTED; and

That the matter is RETURNED to UCBSS to determine the transfer penalty based on

Petitioner's entitlement to two-thirds of the estate.

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