



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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JENNIFER LANGER JACOBS
Assistant Commissioner

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

Y.B.,
PETITIONER,
v.
MORRIS COUNTY DEPARTMENT
OF HUMAN SERVICES/OFFICE OF
TEMPORARY ASSISTANCE
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 04309-22

As Assistant Commissioner for 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. Neither party filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to file a Final Decision is January 29, 2023 in accordance with an Order of Extension. The Initial Decision was received on October 31, 2022.

The matter arises regarding the imposition of a transfer penalty. Morris County set a penalty of 160 days beginning February 1, 2022 for transfers totaling \$57,807.57. Petitioner appealed that action.

There is 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. 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). 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(l)2. Petitioner claims that the some of the transfers to his children were to reimburse them for expenses they paid on his behalf.


During the course of the hearing, additional documentary evidence was provided to Morris County. As a result, the parties stipulated that the receipts presented represent reimbursement to the Petitioner’s children for expenditures made on his behalf. Consequently, the Initial Decision determined that Petitioner received fair market value for those transfers. As a result, \$49,850.14 should not have been included in the penalty assessed against the Petitioner. However, the Initial Decision goes on to state that the Petitioner was unable to show that he failed to rebut the presumption that \$6,956.86 was transferred for the purpose of establishing Medicaid eligibility. As a result, the Initial Decision upheld the transfer penalty as to this amount.

I agree. Here the transfers are both compensated and uncompensated. The \$6,956.86 in uncompensated transfers cannot be modified unless and until it is all returned to Petitioner. However, \$49,850.14 was transferred to his children to reimburse for documented expenses paid on Petitioner’s behalf. Those are not uncompensated transfers as Petitioner has received fair market value for them. As such, the penalty should be reduced to \$6,956.86.

THEREFORE, it is on this <sup>10<sup>th</sup></sup> day of January 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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