



State of New Jersey

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

ELIZABETH CONNOLLY  
Acting Commissioner

KIM GUADAGNO  
Lt. Governor

VALERIE HARR  
Director

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

J.B.,	:	
	:	
PETITIONER,	:	<b>ADMINISTRATIVE ACTION</b>
	:	
v.	:	<b>FINAL AGENCY DECISION</b>
	:	
DIVISION OF MEDICAL ASSISTANCE	:	<b>OAL DKT. NO. HMA 12835-14</b>
	:	
AND HEALTH SERVICES AND	:	
	:	
MORRIS COUNTY BOARD	:	
	:	
OF SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

As Director of 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, the contents of the OAL case file and Petitioner's exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is March 16, 2015, 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 January 29, 2015.

At issue in this case is the penalty imposed due to Petitioner's transfers totaling \$17,226.24 to his son, E.B. The ALJ found that Morris County had properly imposed a 1-month and 25-day period of ineligibility for the transfers. For the reasons which follow, I agree with the ALJ's findings and adopt the Initial Decision in its entirety.

I note that any transfer for less than fair market value during the look-back period is presumed to have been made for the purpose of establishing Medicaid eligibility. E.S. v. Division of Medical Assistance & Health Services, 412 N.J. Super. 340, 353 (App. Div. 2010); N.J.A.C. 10:71-4.10(i). It is the applicant's burden to rebut this presumption 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). Here, the ALJ found that the transfers were made for the express purpose of establishing Medicaid eligibility for J.B., who was already in failing health at the time of the first transfer of \$10,500 in December 2012, and about to move into a nursing home at the time of the second transfer of \$6,766.64 in June 2014. Moreover, as noted by the ALJ, E.B.'s own testimony supports the imposition of a transfer penalty as he acknowledged that he became aware of the Medicaid resource requirements in November 2012, when he applied for Medicaid benefits on his mother's behalf, and then transferred his father's funds to himself, just one month later, in December 2012. Initial Decision at page 4.

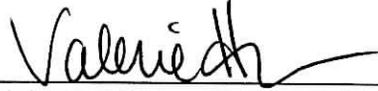
Additionally, Petitioner bears the burden of proof to demonstrate that he received fair market value for the assets transferred. N.J.A.C. 10:71-4.1(j). In

exceptions, E.B. claims that the \$10,500 transfer was repayment of Petitioner's unpaid rental obligations. E.B. claims that his father had verbally agreed to pay him \$1500 per month. The problem with this argument is that E.B. had no written rental agreement with his father and, without such documentation, there is no basis for determining how the monthly rate of \$1500 was reached and thus no evidence to show that E.B. received fair market value for the transferred funds. Given the absence of a written agreement coupled with Petitioner's failing health at the time of the transfers, I agree with the ALJ's conclusion that Petitioner failed to present convincing evidence that the assets were transferred solely for a purpose other than to establish Medicaid eligibility.

THEREFORE, it is on this *11th* day of March 2015,

ORDERED:

That the Initial Decision affirming the transfer penalty is hereby ADOPTED as the Final Decision.

  
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Valerie J. Harr, Director  
Division of Medical Assistance  
and Health Services