



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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VALERIE HARR
Director

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

J.H.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

& HEALTH SERVICES and PASSAIC

COUNTY BOARD OF SOCIAL

SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 5109-2014

As Director of 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. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is November 12, 2015 in accordance with an Order of Extension.

Petitioner had applied for Medicaid benefits in January 2015. She had entered a nursing home in November 2014. Passaic County questioned a number of withdrawals and deposits that occurred during the five year lookback. As a result, Petitioner was found eligible as of December 1, 2014 but assessed a penalty of \$11,582.

A number of the transfers were explained as cash withdrawals for living expenses for Petitioner. I concur with the ALJ's findings that those withdrawals were for fair market value.

However, checks totaling \$5,363 were found by the ALJ to be transfers of assets. Petitioner contended that the checks were reimbursement to her daughter for two of her daughters to travel to New York from California. The record indicates there were four trips. The first was in November 2012. The second trip was in July 2013. In 2014 her daughters came in April 2014 after a medical emergency and again in September of that year. The checks alleged to be for reimbursement are as follows:¹

Check #	Date	Amount
6872	August 5, 2012	\$1,434
6875	April 22, 2014	\$2,065
6873	May 31, 2014	\$543.35 ²
6876	May 31, 2014	\$1,864

The three checks written in April and May 2014 to Petitioner's daughter total \$4,472.35. This amount exceeds the stated cost of the trip of \$2,377.20. Petitioner's March 13, 2015 submission at 37. Even without Check #6873 the two checks reimbursed Petitioner's daughter \$3,929 which exceeds the stated cost by \$1,551.80.

¹ The check numbers are non-sequential. The checks from August 2012 and April 2014 are signed by Petitioner. The checks written in May 2014 are signed by Petitioner's daughter.

² This check was not included in the transfer penalty but states "trip related expenses" in Note.

The ALJ found credible the certifications from Petitioner's three daughters that Petitioner "did not withdraw [three withdrawals totaling \$3,772.62] for gifts because she has never made a cash gift and she could not afford to make such generous gifts." ID at 8. However, the ALJ determined that the certifications about Petitioner's desire to reimburse for travel were found not to be credible. ID at 13. I agree that the suggestion that Petitioner would reimburse \$5,363 for the cost of travel when she "could not afford to make" gifts of \$3,772.62 is not supported by the record.

Petitioner raises the issue of Pre-Eligibility Medical Expenses (PEME) in exceptions. That issue was not transmitted to or addressed by the Office of Administrative Law. ID at 8. As such, I will not make any findings herein.

THEREFORE, it is on this ^{6th} day of NOVEMBER 2015

ORDERED:

That the Initial Decision is hereby ADOPTED.



Valerie Harr, Director
Division of Medical Assistance
and Health Services