



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 receipt. The Initial Decision in this matter was received on April 8, 2015.

This appeal stems from the imposition of a penalty period based upon a transfer of assets. On March 18, 2014, Petitioner applied for Medicaid benefits. On June 3, 2014, Bergen County Board of Social Services (BCBSS) denied the application based on \$123,950 transfer of resources. On January 12, 2015, after review of additional documentation, BCBSS determined Petitioner transferred \$119,580.14. As a result, Bergen County Board of Social Services (BCBSS) imposed a transfer penalty of twelve months and twenty-one days.

In determining Medicaid eligibility for someone seeking institutionalized benefits, the counties must review five years of financial history. During that time period, a resource cannot be transferred or disposed of for less than fair market value. 42 U.S.C.A. § 1396p(c)(1); see also N.J.A.C. 10:71-4.10(a). Under the regulations, “[i]f an individual . . . (including any person acting with power of attorney or as a guardian for such individual) has sold, given away, or otherwise transferred any assets (including any interest in an asset or future rights to an asset) within the look-back period” a transfer penalty of ineligibility is assessed.<sup>1</sup> N.J.A.C. 10:71-4.10 (c). 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). It is Petitioner's burden to

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<sup>1</sup> Congress understands that applicants and their families contemplate positioning assets to achieve Medicaid benefits long before ever applying. To that end, Congress extended the look back period from three years to five years. Deficit Reduction Act of 2005, P.L. 109-171, § 6011 (Feb. 8, 2006).

overcome the presumption that the transfer was done – even in part – to establish Medicaid. At the hearing, Petitioner was unable to provide documentation regarding the nature of the transfers. As a result, the ALJ concluded that Petitioner was unable to rebut the presumption that the transfers were made for the purpose of qualifying for Medicaid and upheld the transfer penalty imposed by BCBSS.

THEREFORE, it is on this 12<sup>th</sup> day of MAY 2015,

ORDERED:

That the Administrative Law Judge's recommended decision is hereby ADOPTED.



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