



State of New Jersey

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CHRIS CHRISTIE  
Governor

ELIZABETH CONNOLLY  
Acting Commissioner

KIM GUADAGNO  
Lt. Governor

MEGHAN DAVEY  
Director

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

J.S.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

BERGEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 10758-2015

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. No exceptions were filed. Procedurally, the time period for the Agency Head to file a Final Decision is August 25, 2016 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 receipt. The Initial Decision was received on July 11, 2016.

The matter arises regarding the imposition of a transfer penalty. Petitioner was admitted to a nursing facility in March 2015 and applied for Medicaid in May 2015. By notice dated June 30, 2015 Petitioner was found otherwise eligible as of June 1, 2015. However, in October 2009, Petitioner obtained a reverse mortgage on her home.<sup>1</sup> All told, during the five-year lookback, she received \$228,000 from the equity of her house. Bergen County requested information on how she spent the funds. It appears the vast majority of the funds were withdrawn as cash and there is no documentation how the money was used. Based on bills and monthly expenses, Bergen County reduced the transferred amount to \$168,000. Petitioner's penalty runs from June 1, 2015 through October 26, 2016.

There is a rebuttable presumption that transfers done within five years of institutionalization were done to qualify for Medicaid. The regulation places the burden of demonstrating that the transfer was done exclusively for another purpose on the Petitioner. N.J.A.C. 10:71-4.10(k). The Initial Decision held that Petitioner failed to rebut the presumption or to establish that she received fair market value for the funds she received. I have reviewed the record and concur. Petitioner's explanation of the use of the funds is inconsistent. For example, Petitioner's testimony that she paid for home repairs in cash contradicts her written statement in June 2015 that she "never used the money for home improvements." ID at 3. I agree that Petitioner failed to establish how those funds were used. Thus, I hereby ADOPT the Initial Decision.

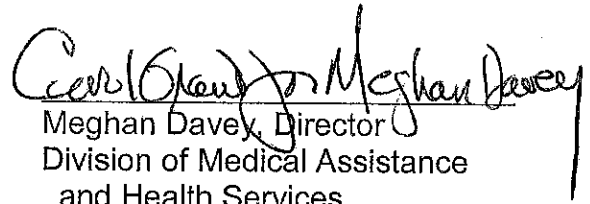
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<sup>1</sup> The house was sold in September 2015.

THEREFORE, it is on this <sup>15<sup>th</sup></sup> day of AUGUST 2016,

ORDERED:

That the Initial Decision is hereby ADOPTED in its entirety.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services