

## State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P.O. Box 712
Trenton, NJ 08625-0712

CHRIS CHRISTIE
Governor

KIM GUADAGNO Lt. Governor ELIZABETH CONNOLLY
Acting Commissioner

MEGHAN DAVEY Director

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

R.P.

PETITIONER.

**ADMINISTRATIVE ACTION** 

٧.

FINAL AGENCY DECISION

**DIVISION OF MEDICAL ASSISTANCE** 

OAL DKT. NO. HMA 17223-2016

AND HEALTH SERVICES AND

MONMOUTH COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

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. Procedurally, the time period for the Agency Head to file a Final Decision is April 3, 2017, 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 February 16, 2017.

The matter arises regarding the imposition of a transfer penalty of 156 days. Petitioner entered the nursing home in March 2016 after suffering a series of falls. He was born with cerebral palsy and was 89 years old. He had been living with a friend, who was also his Power of Attorney (POA) and her husband since 2006. Monmouth County found that Petitioner was otherwise eligible as of March 1, 2016 but was subject to a penalty for the transfer of \$51,900.<sup>1</sup>

The Initial Decision held the transfer penalty was properly assessed. The funds were withdrawn from one of Petitioner's bank accounts and are not accounted for. The ALJ found that even with additional time Petitioner and his POA failed to explain the excessive cash withdrawals. Rather the testimony from Petitioner's POA about the withdrawals was characterized as "vague and insufficient." ID at 7. Even in exceptions, Petitioner continues to claim that he never anticipated having to apply for Medicaid and he had a traumatic onset of disability. The facts contradict this as Petitioner was born with cerebral palsy and in 2006, when he moved in with his POA, his health had already begun to decline. ID at 7.

Petitioner's attorney also claims that the transfers were for fair market value. It is unclear how the transfer of \$32,000 allegedly spent on landscaping the POA's property can be characterized as for fair market value. ID at 8. Moreover, Monmouth County did not include the expenses from Petitioner's Bank of America account that received his Social Security benefits and pension checks. ID at 5. That account showed withdrawals for rent and personal expenses. The transfers here had no supporting documentation and, despite multiple extensions of time, "[Pjetitioner could not provide

<sup>&</sup>lt;sup>1</sup>Petitioner had previously applied in December 2014. That application was denied for failure to provide information. ID at 2.

testimony or documents to demonstrate that the excess funds withdrawn over the eighteen-month section of the look-back period, were used for [P]etitioner's support and maintenance." ID at 10. Thus, I hereby ADOPT the Initial Decision in its entirety.

THEREFORE, it is on this day of MARCH 2017,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Meghan Davey, Director
Division of Medical Assistance
and Health Services