



**State of New Jersey  
 Department of Human Services  
 Division of Medical Assistance and Health Services  
 P.O. BOX 712  
 TRENTON NJ 08625-0712**

**PHILIP D. MURPHY**  
 Governor

**Sheila Y. Oliver**  
 Lt. Governor

**Carole Johnson**  
 Commissioner

**Meghan Davey**  
 Director

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

A.N.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OCEAN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

**ADMINISTRATIVE ACTION**

**ORDER OF REMAND**

**OAL DKT. NO. HMA 9033-2018**

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the OAL case file and the Initial Decision approving the Settlement Agreement reached by the parties. Procedurally, the time period for the Agency Head to file a Final Decision is October 9, 2018 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 August 24, 2018.

This matter concerns the imposition of a transfer penalty due to Petitioner's transfer of \$59,833.10. The Settlement Agreement reduces the penalty by \$24,000 due to the purchase of an automobile. For the reasons that follow, I hereby REJECT the Settlement Agreement and REMAND the matter to OAL for further proceedings.

The Settlement Agreement states that since Petitioner, who is 98 years old, can retain one car, the purchase of a vehicle for \$24,000 is excluded. Petitioner's application lists him as the owner of the 2017 model year car and nothing is owed on the vehicle. None of the transfers in the record are for \$24,000, the stated price of the car, or are identified as transfers from his account to a car dealer. Additionally, if purchased new, cars do not cost a round number.

There are two transfers to his sister's account that are large enough to encompass the \$24,000 cost of the car that occurred in January 2016, with a transfer of \$55,883, when a 2017 model would not be available to purchase, or in September 2017 when he transferred \$40,000 to his sister. This transfer occurred five days before his last rent check and payments began to the nursing home.

The record is unclear what proofs were presented to demonstrate that Petitioner owned the 2017 car, registered and insured it in his name and was the sole driver of the vehicle. Indeed, the use of an applicant's assets to purchase a car is not an uncommon explanation for transfer of funds. See S.L. v. DMAHS and Essex County Board of Social Services, 2014 N.J. Super. Unpub. Lexis 2152 (September 2, 2014) and C.S. v. DMAHS and Cape May CWA, OAL Dkt. No. HMA 9764-2014 (FAD signed December 23, 2014). As such, I FIND there is insufficient evidence about the purchase of the

vehicle and how Petitioner is currently using the vehicle to determine whether it can be excluded. 42 C.F.R. § 416.1218.

THEREFORE, it is on this 28<sup>th</sup> day of SEPTEMBER 2018,

ORDERED:

That the Settlement Agreement is hereby REJECTED; and

That the matter is REMANDED to OAL.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services