



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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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.P.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MONMOUTH COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 1737-2018

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 in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is November 13, 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 September 26, 2018.

The matter arises regarding the determination that Petitioner was subject to a transfer penalty. Monmouth County found that Petitioner has transferred \$193,875.07

during the lookback period. Petitioner was found eligible as of December 1, 2017 and would be done with the penalty on March 4, 2019. However, she passed away in September 2018. No appearance has been entered by her estate.


The Initial Decision upholds the transfer penalty as Petitioner did not rebut the presumption that the transfer was done for the purpose of qualifying for Medicaid. N.J.A.C. 10:71-4.10(j). Petitioner claimed some of the transfers were done to renovate a home purchased by her grandchildren so that she could move there after living in an assisted living facility. The largest transfer of \$99,000 was to her granddaughter purportedly as a down payment for the home. No evidence of the purchase or the cost of the home was provided. ID at 5. Petitioner also gave her grandson \$41,006.83 to purchase a car. R-6. The other transfers were transfers to her son's credit card or unknown withdrawals.

The Initial Decision reviewed the arguments advanced by Petitioner and found that Petitioner failed to show by a preponderance of the evidence that the transfers were solely for a purpose other than establishing Medicaid eligibility. ID at 14. All the transfers occurred after Petitioner entered the assisted living facility. There was no evidence surrounding the alleged renovations to demonstrate the scope of the construction. The only expense that appears to be related to Petitioner involves \$1,012.44 for rent of a storage unit and moving expenses of Petitioner's household items. However, even reducing the penalty by this amount does not alter the fact that Petitioner was never eligible for long term care benefits prior to her death. Based upon my review of the record, I hereby ADOPT the Administrative Law Judge's findings of fact and recommended decision concluding that the Petitioner was properly assessed a penalty.

THEREFORE, it is on this 5th day of NOVEMBER 2018,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services