



State of New Jersey
Department of Human Services
Division of Medical Assistance and Health Services
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Sheila Y. Oliver
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Carole Johnson
Commissioner

Meghan Davey
Director

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

G.O.,

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 11891-17

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the entire contents of the OAL case file. Neither Party filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is August 23, 2018, in accordance with an Order of Extension. The Initial Decision in this matter was received on May 24, 2018.

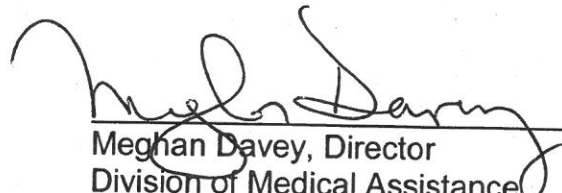
At issue is a 205 day penalty imposed due to Petitioner's transfers totaling \$68,409.15. In determining Medicaid eligibility for someone seeking institutionalized benefits, the counties must review five years of financial history. Under the regulations, "[i]f an individual . . . (including any person 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. N.J.A.C. 10:71-4.10 (c). It is Petitioner's burden to overcome the presumption that the transfer was done – even in part – to establish Medicaid eligibility. 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). The Administrative Law Judge (ALJ) found that the Petitioner had failed to meet her burden of proof that the resources were transferred for some reason other than to qualify for Medicaid and affirmed the transfer penalty.

However, while the ALJ concluded that OCBSS correctly determined that Petitioner was subject to a reduced penalty, it is unclear how the ALJ arrived at a \$25,975.62 penalty. The March 21, 2018 revised notice of transfer penalty reduced the amount from \$120,013 to \$68,409.15. If the March 21, 2018 transfer penalty has been further reduced, the record does not reflect the transactions and amounts that were determined to be transfers for fair market value.

THEREFORE, it is on this 14th day of AUGUST 2018,

ORDERED:

That the Initial Decision is REMANDED to the Office of Administrative Law for clarification on the amount of the transfer penalty.


Meghan Davey, Director
Division of Medical Assistance
and Health Services