

Petitioner contends that the transferred funds were paid to his son for care he provided. As evidence of this, he produced an affidavit from 2011 which claimed that he was paying his son \$1,100 a month as of May 31, 2011 for help standing and sitting, eating, taking medications and other activities. P-5. This seems impossible as the son permanently resides in Florida and these activities occur daily. The transfers do not even comport in amount with the allegation that Petitioner paid his son \$1,100 a month for care. At the hearing Petitioner's son claimed that there were receipts for items he purchased to explain the transfers. At most those receipts total \$10,701.48. None of the transfers to the son correlate in amount and date to the expenditures. Thus, I FIND that neither of the explanations rebut the presumption that the transfers were done in contemplation of Medicaid eligibility or support the claim that Petitioner received fair market value.

The Initial Decision notes that one expense of \$171.19 to Office Depot could be attributed to filing the application. The only correlation appears to be the April 15, 2017 expense date was two days after the signing of the application on April 13, 2017. Compare P-15 and R-1. This is insufficient to support such a conclusion. Moreover, there was no corresponding transfer from Petitioner to his son to reimburse this expense. The last transfer occurred in March 2016, a year before the application was filed. I FIND no basis to conclude that the transfer penalty should be adjusted.

With regard to Petitioner's eligibility date, my review of the record shows that Petitioner's income from the Veterans' Administration (VA) is based on his unreimbursed medical expenses. Despite the VA's own instruction to categorize these payments as aid and attendance, the award letter in the record does not do this. See https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000015794/M21-1-Part-III-Subpart-iii-Chapter-4-Information-Requests-to-or-From-Other-Federal-and-State-Agencies.

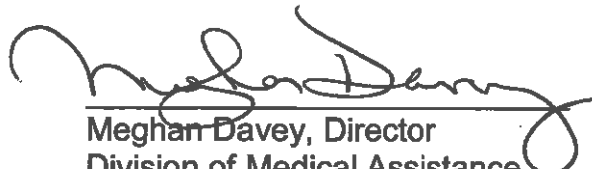
This income would not have been counted for eligibility purposes and would not have required a Qualified Income Trust. However, the benefit is not excluded from resources and is included in post-eligibility obligations. See POMS SI 00830.312. I cannot discern from the record when Petitioner would have been eligible if the VA income was disregarded. Thus, the matter is returned to Ocean County for further action on the eligibility date to start the penalty and to prepare the post-eligibility obligation of Petitioner.

THEREFORE, it is on this ^{3rd} day of JULY 2018,

ORDERED:

That the Initial Decision is hereby ADOPTED in so far as Petitioner is subject to a penalty of fifty-five days; and

That the matter is returned to Ocean County to take action as stated above.


Meghan Davey, Director
Division of Medical Assistance
and Health Services