

This matter arises from the Mercer County Office Board of Social Services (MCBSS) March 30, 2022 determination that Petitioner transferred \$9,105 during the look-back period and was therefore subject to a twenty-five day transfer penalty from April 1, 2022 through April 25, 2022. Medicaid law contains a presumption that any transfer for less than fair market value during the look-back period was made for the purpose of establishing Medicaid eligibility. See E.S. v. Div. of Med. Assist. & Health Servs., 412 N.J. Super. 340 (App. Div. 2010); N.J.A.C. 10:71-4.10(i). The applicant, “may rebut the presumption that assets were transferred to establish Medicaid eligibility 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). 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).

It is undisputed that the Petitioner transferred a total of \$8,000 to his daughter A.J-B., in two separate transactions, from his personal bank account. It is also undisputed that Petitioner transferred his 2001 Dodge Caravan to his other daughter, J.A., in 2019. A.J-B. testified at the hearing. J.A. did not appear.

A.J-B. argued that the transfer of \$8,000 was a thank you to her for assisting Petitioner with all of his brother's affairs prior to and after his passing. In accordance with N.J.A.C. 10:71-4.10(b)6.ii, care and services provided for free in the past are presumed to have been intended to be delivered without compensation. Additionally, I agree with the ALJ that there is no documentary evidence outlining the specific nature or scope of the assistance, the amount of time spent providing the assistance or the terms of compensation. Petitioner has failed to meet his burden to show that he received fair market value for the \$8,000 transferred to his daughter A.J-B., or that the money was transferred solely for a

purpose other than to qualify for Medicaid.

However, it is for the same reason, that I must disagree with the ALJ regarding the transfer of Petitioner's car to his daughter, J.A. The meager value of a car, does not in itself demonstrate that something was transferred solely for a purpose other than to qualify for Medicaid, especially when taken together with other transfers. A.J-B. argued that neither her father's age nor health motivated Petitioner to transfer these assets for the purpose of qualifying for Medicaid. In doing so, she points to an April 13, 2022 letter from Petitioner's doctor stating he was "completely independent, living by himself in his own home, driving, and fully able to perform all of his activities of daily living" until approximately October 2021. A.J-B cannot claim that her father was fully capable of driving himself in 2019 and simultaneously claim that the car was transferred to his daughter to transport him. Moreover, there is no evidence in the record, documentary or testamentary, outlining the nature and scope of the transfer to J.A., her obligation to transport him, or when or how often she actually did use the vehicle to transport Petitioner. There is no evidence in the record that the transfer of Petitioner's car was solely for some purpose other than to qualify for Medicaid or that Petitioner received fair market value for the car. I FIND that the \$1,105 value of Petitioner's car should be included in the amount of the transfer penalty.

THEREFORE, it is on this 30th day of AUGUST 2022,

ORDERED:

That the Initial Decision is ADOPTED regarding the transfer of \$8,000 to A.J-B; and

That the Initial Decision is REVERSED with regard to the transfer of Petitioner's car to A.J.



Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services