



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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Assistant Commissioner

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

F.F.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
ATLANTIC COUNTY DEPARTMENT
OF FAMILY AND COMMUNITY
DEVELOPMENT,
RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 08326-2020

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 29, 2022 in accordance with an Order of Extension.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of Medicaid benefits. By letter dated August 11, 2020, the Atlantic County Department of Family and Community Development (Atlantic County) granted Petitioner's February 2020 application with eligibility as of December 24, 2020. However, a penalty of 237 days was

assessed resulting from transfers totaling \$84,910.11 during the look-back period. Petitioner contested the transfer penalty asserting that some of the money transferred by petitioner to her children was used for Petitioner's care and should result in partial credit.

The Initial Decision upholds the transfer penalty related to the \$84,410.11 in transfers, as Petitioner did not rebut the presumption that the transfers were done for the purpose of qualifying for Medicaid. N.J.A.C. 10:71-4.10(j). Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

In determining Medicaid eligibility for someone seeking institutionalized benefits, 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). "A transfer penalty is the delay in Medicaid eligibility triggered by the disposal of financial resources at less than fair market value during the look-back period." E.S. v. Div. of Med. Assist. & Health Servs., 412 N.J. Super. 340, 344 (App. Div. 2010). "[T]ransfers of assets or income are closely scrutinized to determine if they were made for the sole purpose of Medicaid qualification." Ibid. Congress's imposition of a penalty for the disposal of assets for less than fair market value during or after the look-back period is "intended to maximize the resources for Medicaid for those truly in need." Ibid.

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). The burden of proof in rebutting this presumption is on the applicant. Ibid. The regulations also provide that "if the applicant had some other purpose for transferring the asset, but establishing

Medicaid eligibility appears to have been a factor in his or her decision to transfer, the presumption shall not be considered successfully rebutted.” N.J.A.C. 10:71-4.10(i)2.

In the present matter, Atlantic County conducted a review of Petitioner’s financial documents and identified seven (7) transfers for less than fair market value between January 25, 2015, and December 9, 2015 totaling \$84,910.11.¹ ID at 10. However, in preparation for the fair hearing, Atlantic County credited \$500.00 to Petitioner because the January 25, 2015 transfer, occurred before the look-back period. Ibid. This reduced the penalty period by two (2) days. Ibid. Therefore, the transfers at issue in this matter are the remaining transfers totaling \$84,410.11. The bulk of the funds, \$74,096.43, was transferred on April 21, 2015 into an account owned by Petitioner’s daughter, N.H. ID at 9. Although Petitioner asserts it as intended as an inheritance for all four (4) of Petitioner’s children, the account containing the funds is titled only in N.H.’s name. Ibid.

In response to the notice of penalty, Petitioner’s counsel submitted a request for partial relief from the penalty by submitting several checks and receipts paid on behalf of Petitioner totaling \$74,096.43. Ibid. However, Petitioner submitted nothing to show that any of the transfers were for fair market value, and failed to establish that all of the transferred money was returned. As such, the Initial Decision found that Petitioner failed to rebut the presumption that the transfers occurred in order to establish Medicaid eligibility

¹ Atlantic County set forth the following transfers made between January 25, 2015, and December 9, 2015: \$500 to University payment to autin ch#431 on 1/25/2015; \$500 to R.F.(family member) on 6/27/2015; \$1,000 to R.F.(family member) on 8/3/2015; \$3,500 counter withdrawal by N.H. on 7/27/2015; \$3,500 internet transfer to #6815 on 11/30/2015; \$1,813.68 to R.F. 12/9/2015; \$74,096.43 to N.H. (family member) USB account # 83866. R-1 at 21.

Based upon my review of the record and for the reasons set forth herein, I hereby ADOPT the ALJ's recommended decision and FIND that Petitioner has failed to rebut the presumption that the transfers at issue in this matter, which totaled \$84,410.11, were made in order to establish Medicaid eligibility.

THEREFORE, it is on this ^{19th} day of AUGUST 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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