

This matter arises from the Atlantic County Board of Social Services' (ACBSS) January 31, 2022 determination that Petitioner transferred \$43,111.30 during the look-back period and was therefore subject to a 119 day transfer penalty. 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).

On January 7, 2022, Petitioner, who is ninety-three years old, filed a Medicaid application with the ACBSS with the assistance of his designated authorized representative (DAR).¹ Petitioner lived with his daughter and son-in-law beginning in 2012 until he was hospitalized on August 19, 2021. Thereafter, he was discharged to a facility, where he continues to reside. From August 2009 through December 2021, Petitioner made several transfers, in varying amounts, to his daughter, P.H. Petitioner's son-in-law, K.H., testified on his behalf and argued that these were repayments pursuant to the terms of a 2013 lease and for stair lifts installed in 2012 as well as other expenses. I agree with the ALJ that the record does not support this assertion. Petitioner provided no receipts for the alleged expenses, no income tax returns verifying receipt of rental income, and no accounting of the amount Petitioner still owed in rent arrears. Additionally, the timing of the lump sum payments,

¹ Petitioner's DAR is Yetti Roth of Future Care Consultants.

beginning in 2019 through December 2021, just prior to filing his Medicaid application, indicates that they were made for the purpose of Medicaid planning.

I FIND that Petitioner has failed to rebut the presumption that the transfers were solely for a purpose other than qualifying for Medicaid.

THEREFORE, it is on this 9th day of AUGUST 2022,

ORDERED:

That the Initial Decision is ADOPTED.



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