



This matter arises from the Middlesex County Board of Social Services' (MCBSS) March 10, 2022 determination that Petitioner transferred \$134,937.93 during the look-back period and was therefore subject to a 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 29, 2022, Petitioner, through his Designated Authorized Representative (DAR) Donna Smith of Roosevelt Care Center, filed a Medicaid application with Middlesex County. Petitioner's application listed two bank accounts and a Qualified Income Trust, established August 1, 2021. As part of the five year look-back, Middlesex County identified a number of large cash withdrawals ranging in size from \$1,400 to \$5,000 from one of Petitioner's account. The other account showed two large withdrawals of \$4,000 and \$14,907.93. Petitioner explained that he used cash to cover his daily living expenses, and would obtain money orders to pay for his rent, utilities and other monthly costs. Petitioner does not have any receipts or other documentation to support these monthly expenditures or how these expenses were paid.

In the Initial Decision, the ALJ found that there was no documentation to corroborate what happened to those assets. Additionally, Petitioner's credibility is in questions when he states that he used money orders for expenses, including rent, during the same period when he claims to have had

a friend write checks for these expenses on his behalf.<sup>1</sup> Finally, Petitioner presented the argument that the withdrawals were used for expenses related to frequent gambling and alcohol use, as well as vacations. As such he is required to demonstrate that he received fair market value for the assets transferred. N.J.A.C.10:71-4.10(j). I FIND that the record contains no corroboration of Petitioner's argument.

Petitioner has not provided any documentary evidence to support this claim. Consequently, 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 10<sup>TH</sup> day of NOVEMBER 2022,

ORDERED:

That the Initial Decision is ADOPTED.



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

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<sup>1</sup> These rental payments were deducted from the funds determined by MCBSS to be eligible for a transfer penalty. Initial Decision at 9.