

PHILIP D. MURPHY Governor

SHEILA Y. OLIVER Lt. Governor

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES PO Box 712 TRENTON, NJ 08625-0712

SARAH ADELMAN Commissioner

JENNIFER LANGER JACOBS Assistant Commissioner

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

J.F.,

PETITIONER,

**ADMINISTRATIVE ACTION** 

٧.

**FINAL AGENCY DECISION** 

OAL DKT. NO. HMA 03818-21

MIDDLESEX COUNTY BOARD

OF SOCIAL SERVICES,

RESPONDENTS.

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the entire contents of the OAL case file. Petitioner filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 12, 2022 in accordance with an Order of Extension. The Initial Decision was received on September 13, 2022.

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.¹ 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.

Jan Jospanachs

THEREFORE, it is on this 10<sup>TH</sup> day of NOVEMBER 2022,

ORDERED:

That the Initial Decision is ADOPTED.

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

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<sup>&</sup>lt;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.