



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Lt. Governor

SARAH ADELMAN
Acting Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

J.K.,

PETITIONER,

v.

OCEAN COUNTY BOARD

OF SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 00680-22

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. Neither Party filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 23, 2022 in accordance with N.J.S.A. 52:14B-10, which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on May 9, 2022.

This matter arises from the Ocean County Board of Social Services' (OCBSS) January 13, 2022 determination that Petitioner transferred \$36,793.78 during the look-back period and was therefore subject to a 101 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 March 6, 2020, Petitioner divorced from his wife, D.K. Petitioner and D.K. were joint owners of the marital home. As part of the divorce, Petitioner signed a Marital Settlement Agreement wherein he agreed that D.K. would retain ownership of the home in exchange for \$8,000. However, the home was valued at \$151,587.57. After the \$62,000 mortgage was paid off, Petitioner would have been entitled to half of the proceeds which totaled \$89,587.57. Petitioner's half share, reduced by the \$8,000 paid to him by D.K., equals \$36,793.78. Petitioner's failure to avail himself of his share of the proceeds of the marital home resulted in the assessed transfer penalty.

Petitioner argues that this transfer for less than fair market value was for a purpose other than to qualify for Medicaid. Namely, Petitioner explained that he had no control over the couple's financial situation, D.K. forced him out of the house and that he was under "tremendous pressure to escape." Petitioner has not provided any evidence to support his claim. I agree with the ALJ that Petitioner has not met his burden to prove beyond a

reasonable doubt that he transferred \$36,793.78 for a reason other than to establish Medicaid eligibility.

THEREFORE, it is on this 14th day of JUNE 2022,

ORDERED:

That the Initial Decision is ADOPTED.



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