



State of New Jersey

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

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SARAH ADELMAN
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

M.H.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MONMOUTH COUNTY DIVISION

OF SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 04538-2022

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), 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 January 3, 2023, 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 September 28, 2021, the Monmouth County Division of Social Services (MCDSS) approved Petitioner's June 17, 2021 Medicaid redetermination application and advised Petitioner that her Medicaid benefits would continue; however, a

penalty of fifty-six days was assessed resulting from a transfer of assets totaling \$20,481.04¹ for less than fair market value during the five-year look-back period.

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.

¹ MCDSS originally determined that Petitioner transferred \$25,481.04, which are the net proceeds from the sale of her home. However, MCDSS was able to verify that Petitioner purchased a prepaid funeral trust through Choices in the amount of \$5,000. Accordingly, the transfer amount was reduced to \$20,481.04. R-1. The fifty-six day penalty period was determined by dividing the transfer amount of \$20,481.04 by the 2021 penalty divisor of \$360.20. See Medicaid Communication No. 21-04.

The Administrative Law Judge (ALJ) found that the Petitioner failed to demonstrate that the transferred funds were exclusively for another purpose other than to qualify for Medicaid. I concur. The transfers at issue in this matter stem from Petitioner's failure to account for \$20,481.04² of the net proceeds from the September 2020 sale of her home. Petitioner's daughter and power of attorney (POA), D.G., alleges that the funds were used to pay for Petitioner's living expenses; however, the documentation provided does not show a nexus between the alleged expenses and the funds at issue. Initially, D.G. provided a spreadsheet that she made which noted the receipt of the funds and disbursements that D.G. made to herself. R-5 and R-6. While the first spreadsheet provides that disbursements for the total amount of the net proceeds from the sale of Petitioner's home, i.e. \$25,481.04, were made to D.G., including \$5,000 for a prepaid funeral trust, the second spreadsheet provides that \$24,788.99 were spent under the headings "Outstanding Debt," which includes amounts allegedly paid to Kohl's, Macy's, Boscov's, PNC Visa, Pier One, Great Call, and Comcast; "Reimbursement for Year Expenses while in Chelsea," which includes payments allegedly made for mortgage payments, HOA fees, Liberty Mutual homeowner's insurance, water, electricity, gas, and cell phone; "Personal Care and Household Items," which includes payments allegedly made for disposable underwear, clothing, food items, sheets, a comforter, a blanket, pillows, a chair, and a table; and "Medical Bills," which includes payments allegedly made to various doctors and pharmacy service providers. R-6. No receipts were provided showing any of the alleged payments for these expenses being made.

D.G. did provide various documents that she alleges show some expenses paid for by Petitioner. However, the water bill provided, which is dated September 2019 to October 2020, does not contain a service address, Petitioner's name, account number, or payment

² As noted above, the total net proceeds from the sale of Petitioner's house was \$25,481.04; however, as MCDSS was able to verify that \$5,000 of these funds were used to purchase a prepaid funeral trust for Petitioner, only \$20,481.04 of those funds have been penalized in this matter.

information. R-7. A billing statement with a handwritten note "Taxes" on it shows payments from March 2019 to November 2019; however the statement does not contain an address or homeowner's name. R-8. Further, a Verizon bill for the period of April 26, 2020 to May 2020, with a self-created document attached, titled "Missing Verizon Wireless Billing Statements" and lists payments in the amount of \$29.22 allegedly made from February to September was provided. R-9. The Verizon bill is in the name of C.G. and includes P.G., B.G., D.G., C.G., and T.G. as owners of the phone numbers on the account. Ibid. Petitioner's name is not listed on the bill. A Liberty Mutual Insurance bill for the period of October 6, 2020 to October 6, 2021 was provided, which shows a payment of \$43.27 was due by September 27, 2020. R-10. No proof of payment was provided. Further, a statement for gas services was provided, indicating charges were incurred between October 2019 and October 2020. R-11. The statement does not provide a service address, payment information, or Petitioner's name. Ibid. Petitioner failed to submit any mortgage statements or any type of documentation that shows that the funds at issue were used to pay for the expenses allegedly incurred by Petitioner. Without adequate documentation showing a nexus between the transfers and alleged reimbursements, Petitioner cannot now claim that the transfers at issue should be offset by random purchases allegedly made on Petitioner's behalf. Accordingly, I FIND that Petitioner failed to demonstrate that the funds at issue, totaling \$20,481.04, were made solely for a purpose other than to qualify for Medicaid benefits.

Accordingly, and based upon my review of the record, I hereby ADOPT the ALJ's recommended decision and FIND that the penalty imposed was appropriate.

THEREFORE, it is on this 23rd day of DECEMBER 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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