



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Assistant Commissioner

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

S.T.,

PETITIONER,

v.

ATLANTIC COUNTY DEPARTMENT
OF FAMILY AND COMMUNITY
DEVELOPMENT,
RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 01590-22

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Neither party filed Exceptions. Procedurally, the time period for the Agency Head to file a Final Decision is December 8, 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 receipt. The Initial Decision was received on September 9, 2022.

This matter arises from the Atlantic County Department of Family and Community Development's (Atlantic County) January 31, 2022 notice of eligibility and imposition of a 144 day penalty period for the transfer of assets totaling \$52,169.76. On December 30, 2021, Petitioner filed a Medicaid application with Atlantic County. This was Petitioner's fourth Medicaid application. On January 31, 2022, Petitioner's application was approved with an effective date of February 22, 2022 due to a 144 transfer penalty. Atlantic County identified eight transfers, totaling \$52,169.76.

Petitioner does not challenge five of the eight transactions, which amounts to \$17,913.16 of the total transfers, or fifty days. The remaining three transfers involve a \$8,785.89 check to Petitioner's daughter, S.M.; removal of Petitioner from a joint bank account with S.M.; and the sale of Petitioner's home for less than fair market value. The remaining transfers totaled \$34,256.60.

In determining Medicaid eligibility for someone seeking institutionalized benefits, the 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.¹ N.J.A.C. 10:71-4.10 (c). 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). In a thorough, well-reasoned decision, the ALJ affirmed the eligibility date and transfer penalty determined by MCBSS. Based upon my review of the record, I hereby ADOPT the Initial Decision in its entirety and incorporate the same by reference.

The ALJ found no credible explanation or supporting documentation for the transfer of the \$8,785.89 to Petitioner's daughter, S.M. or the assertion that S.M. used the money to pay Petitioner's bills. Furthermore, the ALJ correctly concluded that even if that money was used to pay Petitioner's bills, the Medicaid regulations directive clearly requires that funds be returned to the individual to reduce the transfer penalty. 42 U.S.C §1396p(c)(2)(C). The ALJ also found no credible evidence that the joint account Petitioner held with her daughter, K.D.P., was a 'convenience account,' such that one party could more easily handle the financial affairs of the true owner of the asset," nor was she able to show that the money in the account was solely K.D.P.'s. See Bronson v. Bronson, 218 N.J.Super. 389, 394 (App.Div.1987). Furthermore, K.D.P. testified that she removed Petitioner from the account when she believed she no longer needed access to the monies in the account. (ID at 22). Thereby, solidifying the premise that Petitioner had access to these funds that were then transferred

¹ Congress understands that applicants and their families contemplate positioning assets to achieve Medicaid benefits long before ever applying. To that end, Congress extended the look back period from three years to five years. Deficit Reduction Act of 2005, P.L. 109-171, § 6011 (Feb. 8, 2006).

to her daughter when Petitioner was removed from the account.

Finally, the ALJ concluded that the record established Petitioner sold her home for \$20,000 less than the fair market value of the home. Fair market value is "an estimate of the value of an asset, based on generally available market information, if sold at the prevailing price at the time it was actually transferred." N.J.A.C. 10:71-4.10(b)(6) (emphasis added). The equity value of real property is "the tax assessed value of the property multiplied by the reciprocal of the assessment ratio as recorded in the most recently issued State Table of Equalized Valuations, less encumbrances, if any..." N.J.A.C. 10:71-4.1(d)(1)(iv). The regulation is very specific, it states that "[t]he equity value of real property is" based on this calculation and does not leave room for interpretation. While the tax assessed value of a home is not necessarily an accurate reflection of the price that the property "can reasonably be expected to sell for on the open market in the particular geographic area" absent credible independent evidence, the regulation provides for a uniform determination of the value of property, which can be a subjective art. N.J.A.C. 10:71-4.1(d). See also N.J.A.C. 10:71-4.7(b).

Atlantic County did not rely solely on the tax assessed value of Petitioner's property, which was \$111,000. Instead, when presented with a professional appraisal of the home's value, Atlantic County relied on the appraiser's valuation of \$85,000. Petitioners did, in fact, receive an offer of \$85,000, but when it was rescinded, waited only a week before accepting an offer \$25,000 under fair market value. After reviewing the record, I concur with the ALJ's findings and conclusion that Petitioner failed to rebut the presumption that her home was sold for less than fair market value.

THEREFORE, it is on this 29th day of NOVEMBER 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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