



The Initial Decision upholds the imposition of the transfer penalty imposed, as the Initial Decision found that Petitioner failed to rebut the presumption that this transfer was done for the purposes of qualifying for Medicaid. See N.J.A.C. 10:71-4.10(j). Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

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.

The property at issue was not Petitioner’s primary residence. Petitioner, through her daughter and co-power of attorney (POA), transferred ownership of the property to


Petitioner's grandson, D.J.C, via a Quitclaim Deed. R-1 at 18-19. The property was to be transferred for \$48,000 and a mortgage agreement for that amount was entered into between D.J.C. and Petitioner, through her daughter and POA, wherein D.J.C. agreed to pay Petitioner \$242.41 on the 5<sup>th</sup> of each month, beginning December 5, 2020 and ending on November 5, 2040. Id. at 22-40. No documentation has been provided to show that any payments were made by D.J.C. to Petitioner in relation to the transfer of the property. While Petitioner's son and co-POA, J.C., alleges in an email to Cape May County and in his testimony that he, as POA, received "scattered" payments on the mortgage, no bank statements were provided showing that Petitioner received any funds related to the transfer of the property. See R-1 at 73. Moreover, there is no documentation showing that Petitioner or her representatives attempted to enforce the mortgage agreement or made any attempts to recoup the past due payments. Therefore, as Petitioner failed to receive any funds for the transfer of the property at issue, the property was transferred without receiving the fair market value of the property, and Petitioner has failed to provide any documentation showing that the transfer was made solely for any other reason than to qualify for Medicaid.

Accordingly, and based upon my review of the record, I hereby ADOPT the ALJ's recommended decision and FIND that Petitioner has failed to rebut the presumption that the transfer at issue in this matter was made in order to establish Medicaid eligibility, and, therefore, the penalty imposed was appropriate.

THEREFORE, it is on this <sup>22<sup>nd</sup></sup> day of JULY 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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