



PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lt. Governor

**State of New Jersey**  
**DEPARTMENT OF HUMAN SERVICES**  
Division of Medical Assistance and Health  
Services  
P.O. Box 712  
Trenton, NJ 08625-0712

SARAH ADELMAN  
Commissioner

GREGORY WOODS  
Assistant Commissioner

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

C.T.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :  
AND HEALTH SERVICES AND :  
ATLANTIC COUNTY DEPARTMENT :  
OF FAMILY AND COMMUNITY :  
DEVELOPMENT, :  
RESPONDENTS. :

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 02870-23**

**(ON REMAND HMA 06883-22)**

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. Neither party filed exceptions in this

matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is November 18, 2024, in accordance with an Order of Extension.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of Medicaid benefits. Specifically, Petitioner appealed a 154-day transfer penalty imposed by the Atlantic County Department of Family and Community Development (Atlantic County) due to the transfer of assets in the amount of \$57,740.11. The matter was transmitted to the Office of Administrative Law (OAL) and a hearing was held on November 14, 2022. The Administrative Law Judge (ALJ) issued a December 1, 2022, Initial Decision finding that Petitioner transferred assets exclusively for a purpose other than to qualify for Medicaid benefits.

Thereafter, on March 1, 2023, the Assistant Commissioner for the Division of Medical Assistance and Health Services issued an Order of Remand reversing that finding and remanding for testimony and documentary evidence regarding the fair market value of the transfers in question. Accordingly, a hearing was held on April 23, 2024, to allow Petitioner to submit financial evidence. In the August 20, 2024, Initial Decision, the ALJ upheld the transfer penalty finding that Petitioner had not presented any evidence explaining the transfers as requested through the Order of Remand. For the reasons set forth herein, I concur.

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 the 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.

In the present matter, Petitioner filed a Medicaid application on April 30, 2022. R-1 at 2-10. Atlantic County found Petitioner eligible for Medicaid as of March 1, 2022 but imposed a transfer penalty of 154- days for transfers in the amount of \$57,740.11 during the five years prior to Petitioner filing for Medicaid. R-1 at 11. Petitioner claimed that the transfer of assets, made to their long-term girlfriend, R.S., were not intended to affect Medicaid eligibility, asserting that they paid R.S.'s credit card bills as part of shared

household expenses. While Petitioner and R.S. shared a household, they never married.<sup>1</sup> The financial documents show regular monthly payments by Petitioner on statements from a Costco Anywhere Visa Card by Citibank that was in R.S.'s name. The charges varied from grocery stores to Amazon to restaurants ranging from \$650 to \$3,117. R-1&2. On Remand, it was ordered that Petitioner provide testimony and documentary evidence on overall household expenses; establish a breakdown of expenses paid by both Petitioner and R.S.; provide proof of payments made by R.S. for household expenses; and clarify the rationale behind using R.S.'s credit card for payments instead of Petitioner's own accounts.

At the OAL hearing following Remand, Petitioner's son, D.T. testified that Petitioner used these funds to pay Petitioner's shared living expenses with R.S. but did not know why Petitioner paid R.S.'s credit card statements. ID at 4. No written agreement or credible testimony was presented regarding Petitioner's and R.S.'s financial arrangements or overall cost of living and monthly household expenses. Accordingly, the ALJ found that Petitioner failed to provide clear documentation or testimony regarding the financial arrangements with R.S. that would justify the payment made towards R.S.'s credit card as legitimate shared expenses.

Furthermore, Petitioner has a history of Parkinson's Disease and underwent unsuccessful surgery, leading to a decline in ability to work and a reasonable expectation of requiring Medicaid benefits. ID at 2.

---

<sup>1</sup> When Petitioner applied for Medicaid, Petitioner correctly noted that they were single and accordingly they were evaluated as a single individual. Consequently, Petitioner cannot avail themselves of N.J.A.C. 10:71-4.10 (e) which allows spouses to freely transfer assets back and forth.

I agree with the ALJ's findings and conclusions. The cumulative lack of convincing evidence and documentation presented by Petitioner leads to the conclusion that the Order of Remand was not satisfied. Petitioner did not present any written agreement or clear documentation outlining how household expenses were shared, leaving Atlantic County unable to evaluate the legitimacy of the assets transferred. Further, Petitioner failed to demonstrate that the payments made to R.S.'s credit card represented fair market value or were necessary for shared living expenses, thereby not overcoming the presumption that these transfers were made to establish Medicaid eligibility. Without clear and credible evidence to substantiate Petitioner's claims, the imposition of the transfer penalty remains valid and justified.

Thus, based upon my review of the record and for the reasons set forth herein, I hereby ADOPT the ALJ's initial decision. Further, I FIND that Petitioner has failed to rebut the presumption that the transfers at issue in this matter were made in order to establish Medicaid eligibility, and, therefore, the imposed penalty period is appropriate.

THEREFORE, it is on this 15th day of NOVEMBER 2024

ORDERED:

That the Initial Decision is hereby ADOPTED.

  
\_\_\_\_\_  
Gregory Woods, Assistant Commissioner  
Division of Medical Assistance and Health Services