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**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**

F.A.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES AND :

MIDDLESEX COUNTY BOARD :

OF SOCIAL SERVICES, :

RESPONDENTS. :

**ADMINISTRATIVE ACTION**

**ORDER OF REMAND**

**OAL DKT. NO. HMA 11000-2024**

As Assistant Commissioner for the Division of Medical Assistance and Health Services, 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 March 7, 2025, in accordance with an Order of Extension.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of Medicaid benefits. The Middlesex County Board of Social Services (Middlesex County) notified Petitioner that a transfer penalty of 206 days was assessed, resulting from a \$5,000.00 Toyota Venza gifted to Petitioner's daughter, A.G., and various transfers from a Chase Bank account totaling \$75,406.20. ID at 1.

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. According to N.J.A.C. 10:71-4.1(e)(6), there shall not be a transfer penalty when, "a satisfactory showing is made to the State that: (ii) The assets were transferred exclusively for a purpose other than to qualify for medical assistance."

The Administrative Law Judge (ALJ) heard testimony from the Petitioner, the Petitioner's daughter A.G., and Kurt Eichenlaub from Middlesex County. The ALJ also

reviewed evidence including Chase Bank account statements, various Zelle and bank transactions, mortgage contributions, renovations and construction expenses, list of household contributions, list of NJ transit contributions, United of Omaha Policy ownership returned to the Petitioner, and T-Mobile expenses. ID at 4-5. The ALJ found that the Petitioner was living with their daughter, A.G., when the referenced transfers took place, and that all the transfers and expenses were for living expenses shared with the family. Id. at 2. The ALJ also found that no benefit was received from the Petitioner's life insurance policy. Ibid. Therefore, the ALJ found that the Petitioner transferred assets solely for a purpose other than to qualify for Medicaid under N.J.A.C. 10:71-4.10(a), and concluded that the Petitioner is not subject to a transfer penalty. Ibid. As such, the ALJ reversed Middlesex County's imposition of a transfer penalty of 206 days under N.J.A.C. 10:71-4.10. Ibid.

The ALJ heard testimony from the Petitioner, the Petitioner's daughter, and Kurt Eichenlaub from Middlesex County. Additionally, several exhibits were submitted as evidence during the Fair Hearing. However, the Initial Decision lacks sufficient findings of fact or conclusions of law to support its findings. In particular, it fails to include any discussion of documentary evidence or testimony that would allow for a determination concluding that the Petitioner is not subject to a transfer penalty under N.J.A.C. 10:71-4.10. The ALJ does not summarize any of the testimony, make any finding of credibility or explain the exhibits in any detail. In the Initial Decision the ALJ also stated, "No benefit was received from the life insurance policy," but does not explain the relevance of this statement. Id. at 2. The ALJ should explain what this statement means and how it impacted the Initial Decision.

Accordingly, based on the record before me and for the reasons set forth above, I hereby REVERSE the Initial Decision and REMAND the matter to OAL for a

recommended decision that sets forth in significantly greater detail a reason for the decision, with findings of fact and conclusions of law supported by the testimony and the relevant evidence submitted. As part of this decision, the ALJ should directly speak to the evidence or testimony that supports excluding each individual transfer or group of related transfers from the calculation of a transfer penalty.

THEREFORE, it is on this 3rd day of March 2025,

ORDERED:

That the Initial Decision is hereby REVERSED and the case REMANDED as set forth above.

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