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**STATE OF NEW JERSEY**

**DEPARTMENT OF HUMAN SERVICES**
**DIVISION OF MEDICAL ASSISTANCE**
**AND HEALTH SERVICES**

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| F.A., | |
| PETITIONER, | **ADMINISTRATIVE ACTION** |
| v. | **FINAL AGENCY DECISION** |
| DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES AND MIDDLESEX COUNTY DIVISION OF SOCIAL SERVICES, | **OAL DKT. NO. HMA 06008-2025** |
| RESPONDENTS. | |

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 September 22, 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 209 days was assessed, resulting from various transfers of assets totaling $80,406.20. ID at 1. The Petitioner filed a Fair Hearing request and an Initial Decision was issued by the OAL on December 5, 2024 in which the Administrative Law Judge (ALJ) reversed the transfer penalty. Id. at 2. The Division of Medical Assistance and Health Services issued an Order of Remand on March 3, 2025, for a recommended decision that sets forth a reason for the decision in significantly greater detail with findings of fact and conclusions of law supported by the testimony and relevant evidence. Ibid. A telephone conference was held on June 2, 2025. Ibid. At this conference both parties agreed to rely on the prior testimony and submitted documents rather than holding another hearing. Ibid. As such, the record was closed on June 2, 2025. Ibid.

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."

In the Initial Decision, the ALJ found that the Petitioner was an eighty-two-year-old that had been living in their daughter's home since June 2019. ID at 2. On June 25, 2024, Middlesex County sent the Petitioner a notice informing them of a transfer penalty of 209 days for the transfer of assets totaling $80,406,20. Id. at 3. Upon review of the transfers, Middlesex County rescinded $857 in Chase Bank account transfers, making a new total of $79,549.20 and a 206 day penalty. Ibid.

The ALJ reviewed the transfers at issue. Id. at 4. $9,718.18 in total was transferred from the Petitioner to their daughter A.G. for her to make mortgage payments. Ibid. None of the payments were for the full balance due, and only partial payments were sometimes made directly to the mortgage company. Ibid. Payments were made for the purpose of supporting the household of which the Petitioner was a member. Ibid. $9,735.04 in total was contributed by the Petitioner to A.G. for a renovation of the bathroom they used. Ibid. The ALJ found that this renovation would not have been done had it not been for the Petitioner's use and safety. A total of $4,187.79 was contributed towards the household, including paying for some utilities. Ibid. Petitioner provided a spreadsheet showing payments made to First Energy, PSE&G, Public Service, and Livoti's supermarket as well as other miscellaneous household expenses. Ibid. A total of $23,490 was shown as Zelle transfers to A.G. for household charges. Ibid. Most of the transfers correspond to A.G.'s bank statements, showing she was out of money and had a negative balance at the time. Ibid. Other payments show they were for specific purposes like paying a mortgage or following a bounced mortgage payment. Ibid. Others were for various loans taken out to support the family. Ibid.

The Petitioner used New Jersey Transit to travel to and from their dialysis and doctors' appointments while residing with A.G. Ibid. The ALJ found that the $855 shown as paid to New Jersey Transit works out to an amount that would seem accurate to his use to get to his appointments. Ibid. The Petitioner's daughter opened a United of Omaha policy for petitioner. Ibid. A total of $3,111 has been made in payments to the policy. Ibid. When A.G. was made aware she was the owner of the policy she immediately transferred ownership back to the Petitioner. Ibid. The ALJ found that pursuant to N.J.A.C. 10:71-4.1 0(e)(6)(iii), assets that are returned to the applicant are not to be included in the transfer penalty calculation. Ibid. The ALJ also found a total of $8,554.26 in cell phone charges from January 2020 through July 2023, averaging $198.93 a month.

In the Initial Decision the ALJ found that the Petitioner was living with his daughter and sharing expenses. Id. at 5. In sharing expenses, the Petitioner transferred money to their daughter, A.G. The ALJ reviewed the evidence in the record and the testimony provided by the witnesses and concluded that a total amount of $59,651.27 in transfers were for a purpose other than becoming eligible for Medicaid. The ALJ also concluded that no benefit was ever received from the Petitioner's life insurance policy. Ibid. No evidence was submitted by the Petitioner to rebut the claim that the $5,000 credited for the transfer of a Toyota Venza gifted to A.G. was for fair market value or to become eligible for Medicaid. Ibid. The ALJ determined the remaining balance of unaccounted transfers is $19,897.93. Ibid. As such, the ALJ concluded that there should be a transfer penalty of fifty-one days. I agree.

The Petitioner was living with their daughter, A.G., when the transfers in question were made. They were part of the same household and shared living expenses. The evidence submitted and the testimony provided show that most of the transfers were made to cover household expenses. The ALJ found that "a satisfactory showing was made," that most of the assets at issue "were transferred exclusively for a purpose other than to qualify for medical assistance," based on the testimony and evidence presented to them. N.J.A.C. 10:71-4.10(e)(6). In the Final Agency Decision for C.T. v. Atlantic County, 2024 N.J. AGEN LEXIS 1098 * a transfer penalty was upheld because, "Petitioner did not present any written agreement or clear documentation outlining how household expenses were shared." In this matter, it is my conclusion, based upon my review of the record that while there may not have been a written agreement between the Petitioner and their daughter, numerous documents were entered into evidence that clearly outline how household expenses were shared. The Petitioner submitted bank statements for both them and their daughter. (P-D, P-F). There are transfers in the daughter's statements from the Petitioner that say "mortgage payment" in the description in the statements. (P-F). The Bank statements go from September 2020 to June 2023, showing a consistency of payments. Ibid. The Mortgage loan history from Fifth Third Bank from 2019 to 2024 was also submitted into evidence. (P-L). There are also spreadsheets of the Zelle transfers that list each Zelle transfer, how much was transferred, when it was transferred, and what it was for. (P-E). There is also a spreadsheet of the bathroom construction expenses that the Petitioner paid for along with receipts. (P-G). There is also a spreadsheet of household contributions expenses showing when and how much was paid for First Energy, PSEG, Public Services, and Food. (P-H). There is also a spreadsheet for the NJ transmit expenses, showing how much and when each purchase was made. (P-I). There was also a spreadsheet admitted into evidence, listing payments for T-Mobile, including when the payment was made and the amount of each payment. (P-K). The ALJ saw the witnesses, heard their testimony and entered the submissions into evidence. Based on the testimony and the evidence submitted, the ALJ found a satisfactory showing that the assets were transferred exclusively for a purpose other than to qualify for medical assistance. These transfers were made over a span of a few years. Furthermore, the ALJ did not accept all the transfers at issue, showing the ALJ conducted a careful analysis of the evidence presented for each individual transfer in question. The ALJ did not accept the $5,000 credited for the transfer of a Toyota Venza gifted to the Petitioners daughter because no evidence was submitted to rebut the presumption that this transfer was made to become eligible for Medicaid. Similarly, the ALJ also found a balance of unaccounted transfers in the amount of $19,897.93, that the Petitioner was unable to prove were made for a purpose other than qualifying for Medicaid. For the reasons set forth above, I concur. As such, the imposition of a fifty-one-day penalty is correct.

Accordingly, based on the record before me and for the reasons set forth above, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this 22nd day of September

2025, ORDERED:

That the Initial Decision is hereby ADOPTED as set forth above.

Gregory Woods

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