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

K.S.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE  
AND HEALTH SERVICES AND  
MONMOUTH COUNTY DIVISION OF

SOCIAL SERVICES,

RESPONDENTS.

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 10568-24**

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 February 18, 2025.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of Medicaid benefits. By letter dated June 7, 2024, the Monmouth County Division of Social Services (Monmouth County) advised Petitioner that a penalty of 638 days was assessed

on Petitioner's receipt of Medicaid benefits resulting from the transfer of assets totaling \$245,500 for less than fair market value, during the five-year look-back period. (R-3). Monmouth County also determined that the penalty period would run from May 1, 2024 through January 28, 2026. Ibid. Petitioner appealed both the transfer penalty and the effective date of eligibility. After evaluating the record, Monmouth revised the eligibility date from May 1, 2024, to December 1, 2023, thereby revising the penalty period from December 1, 2023 through August 29, 2025. ID at 2, footnote 1. As a result of this adjustment, Petitioner withdrew their appeal of the effective date of eligibility. Ibid. The Initial Decision found that Petitioner had failed to rebut the presumption that \$245,500 in transfers were done for the purposes of qualifying for Medicaid benefits. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the 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.

In this matter, Petitioner was admitted to a long-term care facility on October 30, 2023. ID at 2. Between June 22, 2020, and March 6, 2023, Petitioner transferred \$236,800 to her son, J.S., who was her Power of Attorney (POA). (R-4). An additional \$8,700 in cash withdrawals were completed during this same period, for a total of \$245,500 in transfers during the five-year look-back. Ibid. On November 2, 2024, Petitioner's son used his own funds to purchase an annuity for Petitioner in the amount of \$125,000. ID at 2. From approximately December 2018 through August 2023, Petitioner's son paid for Petitioner's Medicare and supplemental health insurance premiums, which totaled \$60,503.73, from his personal account. Ibid. Ultimately, Petitioner's son partially reimbursed Petitioner \$25,600. ID at 3. When Monmouth County informed Petitioner of the 638-day penalty, they notified Petitioner that they could rebut the presumption that the transfer of resources was made to qualify for Medicaid benefits, providing a deadline of June 17, 2024. Ibid. Petitioner did not dispute the penalty on or before that date. Ibid.

Petitioner disputes part of the transfer penalty and seeks a reduction of the penalty in the amount of \$211,103.73, which represents the payments made by Petitioner's son to purchase the annuity for \$125,000, for Petitioner's health insurance premiums totaling

\$60,503.73, and the \$25,600 that Petitioner's son reimbursed Petitioner for previous transfers by way of large check transfers. ID at 2.

In the Initial Decision, the Administrative Law Judge (ALJ) found that Petitioner did not produce documentary evidence to demonstrate a preexisting agreement establishing reimbursement for the payment of the annuity, health insurance premiums, or the partial reimbursement of the large monetary transactions, indicating the type and terms of compensation. ID at 5. Additionally, the ALJ found that the partial return of the monetary payments transferred to Petitioner's son are not sufficient to lift the transfer penalty as all assets transferred for less than fair market value must be returned to Petitioner. ID at 6. Lastly, the ALJ found that Petitioner did not prove by a preponderance of the credible evidence that Petitioner intended to compensate their son for the monies paid on Petitioner's behalf and that the transfers to Petitioner's son were for purposes other than to establish Medicaid eligibility. *Ibid.* The ALJ concluded that Petitioner failed to rebut the presumption that \$245,500 was transferred from Petitioner's accounts to establish Medicaid eligibility, and that Petitioner is therefore subject to a 638-day transfer penalty. ID at 6-7.

As mentioned above, "[t]ransfers of assets or income are closely scrutinized to determine if they were made for the sole purpose of Medicaid qualification." E.S. v. Div. of Med. Assist. & Health Servs., 412 N.J. Super. 340, 344 (App. Div. 2010). "[I]f 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.

I FIND that Petitioner has failed to present any documentation to support a finding that the transfers were solely for a reason other than to establish Medicaid eligibility.

Thus, based on the record before me and for the reasons enumerated above, I hereby ADOPT the Initial Decision and FIND that a transfer penalty of 638 days was appropriate.

THEREFORE, it is on this 17th day of FEBRUARY, 2025

ORDERED:

That the Initial Decision is hereby ADOPTED.

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