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

P.M.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES, AND
MORRIS COUNTY DIVISION OF
HEALTH SERVICES, OFFICE OF
TEMPORARY ASSISTANCE,
RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 13979-24

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 April 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. By letter dated May 16, 2024, the Morris County Division of Health Services, Office of Temporary Assistance Services (Morris County) advised Petitioner that a penalty of 260 days was assessed on Petitioner's receipt of Medicaid benefits resulting from the transfer of assets totaling \$114,475.00 for less than fair market value, during the five-year look-back period. The Initial Decision found that Petitioner had failed to rebut the presumption that the transfers in question 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 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.

On May 16, 2024, Petitioner was informed by Morris County that she was found eligible under MLTSS Nursing Home Program but was subject to a 260-day period of ineligibility. (R-1, p. 62). Specifically, between August 2022 and June 2024, Petitioner transferred assets totaling \$114,475.00, which were not explained in response to two request for information letters issued by Morris County. (R-1, p. 36-41). In response to Petitioner's timely appeal, a fair hearing was scheduled for January 28, 2025. At that time, Petitioner's Designated Agent for Representation (DAR) informed the court that Petitioner had no documentation of the transfers, as all paperwork was left in an apartment that had been sold and was now occupied by Petitioner's former caregiver, who is unresponsive to calls. The court adjourned the case until February 18, 2025, for further investigation, including contacting the bank and a cousin who had recently helped with Petitioner's finances. However, on the second hearing date, February 18, 2025, the DAR reported no progress in obtaining any additional information, as they had not reached the former caregiver, the bank, or Petitioner's cousin. Petitioner also had no recollection of the transfers, her caregivers' payments, or her expenses before entering the nursing home. (ID at 2-3).

In the Initial Decision, the ALJ found that Petitioner did not produce documentary evidence to demonstrate that the transfers during the 60-month lookback period were for her care and support or that they were made for fair market value. Accordingly, the ALJ

concluded that Petitioner failed to rebut the presumption that \$114,475.00 was transferred from Petitioner's accounts to establish Medicaid eligibility, and that Petitioner is therefore subject to a 260-day transfer penalty.

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 260 days was appropriate.

THEREFORE, it is on this 19th day of MAY 2025

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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