



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

A.M.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

CAMDEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

Vertical line of dots separating petitioner and respondents from the case details.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 17835-15

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the documents in evidence and Petitioner's exceptions. Procedurally, the time

period for the Agency Head to file a Final Agency Decision in this matter is May 30, 2016, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision in this matter was received on April 15, 2016.

At issue is a 731 day penalty imposed due to Petitioner's transfers totaling \$247,104.81. In determining Medicaid eligibility for someone seeking institutionalized benefits, the 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.<sup>1</sup> N.J.A.C. 10:71-4.10 (c). It is Petitioner's burden to overcome the presumption that the transfer was done – even in part – to establish Medicaid eligibility. The presumption that the transfer of assets was done to qualify for Medicaid benefits may be rebutted "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). Here, Petitioner is seeking to show that he received fair market value for the transferred assets by asserting that a series of checks issued to an individual, M.S., were compensation for caregiving services, and that other payments to family members were not improper. Neither of these arguments is supported by the record. The record does not contain a caregiver

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<sup>1</sup> Congress understands that applicants and their families contemplate positioning assets to achieve Medicaid benefits long before ever applying. To that end, Congress extended the look back period from three years to five years. Deficit Reduction Act of 2005, P.L. 109-171, § 6011 (Feb. 8, 2006).

agreement with regard to M.S. nor invoices for repair work to Petitioner's step-daughter's home for damages allegedly caused by Petitioner.


Furthermore, claims that some of the transfers were payment for caregiving services provided in the past by family members are unsupported by the record. In accordance with N.J.A.C. 10:71-4.10(b)6.ii, care and services provided for free in the past are presumed to have been intended to be delivered without compensation. If payment is to be made there must a preexisting written agreement to pay for such services at a fair market rate. No such document was presented here.

After reviewing the record, I concur with the ALJ's findings in the Initial Decision and hereby ADOPT them in their entirety.

THEREFORE, it is on this 26<sup>th</sup> day of MAY 2016,

ORDERED:

That the Initial Decision affirming the transfer penalty is hereby ADOPTED.

  
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Meghan Davey, Director  
Division of Medical Assistance  
and Health Services