



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

P.O. Box 712
Trenton, NJ 08625-0712

ELIZABETH CONNOLLY
Acting Commissioner

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

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

MEGHAN DAVEY
Director

A.M.,

PETITIONERS,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

BERGEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 03076-16

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the entire contents of the OAL case file. No exceptions to the Initial Decision were filed. Procedurally, the time period for the Agency Head to render a Final Agency Decision is January 3, 2017, 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 the agency's receipt. The Initial Decision was received on November 17, 2016.

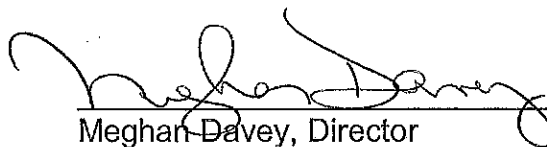
At issue is the penalty imposed due to Petitioners' transfer of her ownership interest in property to her daughter for less than fair market value. By Initial Decision, the ALJ found that Bergen County had properly imposed a 9-month and 26-day period of ineligibility for the transfer, from September 1, 2015 through June 26, 2016. After reviewing the record, I concur with the ALJ's findings in the Initial Decision and hereby ADOPT them in their entirety.

Any transfer for less than fair market value during the look-back period is presumed to have been made for the purpose of establishing Medicaid eligibility. E.S. v. Division of Medical Assistance & Health Services, 412 N.J. Super. 340, 353 (App. Div. 2010); N.J.A.C. 10:71-4.10(i). As noted in the Initial Decision, it is the applicant's burden to rebut this presumption 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). Moreover, pursuant to 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. In this case, there was no agreement to compensate Petitioner's daughter for her care.

THEREFORE, it is on this 21<sup>st</sup> day of December 2016,

ORDERED:

That the Initial Decision affirming the transfer penalty is hereby ADOPTED as the Final Agency Decision.



Meghan Davey, Director  
Division of Medical Assistance  
and Health Services