



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

D.M.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

BURLINGTON COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 9536-2015

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is June 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 May 16, 2016.

The matter arises regarding Petitioner's transfer of assets during the lookback period. Petitioner applied for Medicaid benefits in March 2015. She was residing in a nursing home at that time. Burlington County determined that Petitioner was otherwise eligible as of May 1, 2015 and imposed a penalty due to the transfer of her home and \$70,000 to her daughter.

Petitioner argues that the funds were transferred to pay her daughter for taking care of her. She presented no prior agreement that set forth the terms and conditions of any payments. She also argued that the transfer of the home was pursuant to a caregiver exemption. That exemption provides that if the "equity interest in a home" is transferred by title to a son or daughter who provided such care that prevented institutionalization for at least two years, the transfer is exempt from penalty. 42 U.S.C. § 1396p(c)(2)(A)(iv) and N.J.A.C. 10:71-4.10(d). However, Petitioner presented no proof that she met the exemption. Indeed, her daughter testified that Petitioner could take care of herself. ID at 4.

The Initial Decision upheld the transfer penalty finding that Petitioner had not met her burden to demonstrate that the assets were transferred for a purpose other than qualifying for Medicaid; that the transfers were for fair market value; or that Petitioner could meet the caregiver exemption for the transfer of her house. ID at 5. Petitioner filed exceptions that claimed that documents not submitted to the ALJ "could be important in the judge's decision." Petitioner claims that Burlington County did not provide them.

A review of the record shows that one of the deeds and the doctor's letter is part of the record. The documents that are not part of the record, including tax returns from the daughter and prior deeds for the house, were improperly submitted in exceptions.

N.J.A.C. 1:1-18.4(c) states “[e]vidence not presented at the hearing shall not be submitted as part of an exception, nor shall it be incorporated or referenced within exceptions.” As a result those documents are not part of the record and not reviewed for this decision.


The doctor’s letter and the deed that were part of the record do not change the outcome. The doctor’s letter is not sufficient nor does it address Petitioner’s “condition prior to entering the nursing home.” ID at 3. Her daughter’s testimony denied any need for nursing home level of care for the two years prior to entering the nursing facility. Furthermore, the 2014 deed that transferred the home to the daughter showed that Petitioner owned the home outright.

Thus, I FIND that Camden County correctly determined Petitioner’s eligibility and imposed a penalty period for the transfers as described above. The Initial Decision in this matter is ADOPTED in its entirety.

THEREFORE, it is on this ^{with} day of JUNE 2016,

ORDERED:

That the Initial Decision is hereby ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services