



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

M.J.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OCEAN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 2516-2016

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. No exceptions were filed. Procedurally, the time period for the Agency Head to file a Final Decision is January 5, 2017 in accordance with an Order of Extension.

The matter arises regarding the imposition of a transfer penalty. Petitioner applied for Medicaid in October 2015. Ocean County Board of Social Services found

Petitioner otherwise eligible as of November 1, 2015 and imposed a transfer penalty of 190 days due to a transfer of \$63,384. ID at 2. Petitioner, through her representative Shlomo Cohen, appealed the penalty.

There is a rebuttable presumption that transfers done within five years of institutionalization were done to qualify for Medicaid. The regulation places the burden of demonstrating that the transfer was done exclusively for another purpose on the Petitioner. N.J.A.C. 10:71-4.10(k). The Initial Decision held that Petitioner failed to rebut the presumption or to establish that she received fair market value for the funds she transferred. I have reviewed the record and concur. However, the Initial Decision does modify the penalty in two areas. Petitioner's husband testified that they rented a condominium in Florida during the winter and identified checks made out to Buddie Jesse as the landlord for the rental. ID at 3. As such the penalty should be reduced by those payments. Thus, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this ¹ day of DECEMBER 2016,

ORDERED:

That the Initial Decision is hereby ADOPTED in its entirety; and

That Ocean County shall modify the penalty as set forth above.

Matthew Shaw
CFO, *9/10*
MDA ON BEHALF OF
Meghan Davey, Director
Division of Medical Assistance
and Health Services