



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

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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

P.M.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
ATLANTIC COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 09443-16

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

November 21, 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 October 6, 2016.

At issue is a 171 day penalty imposed due to Petitioner's transfers totaling \$56,895.91. 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.¹ 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 made six transfers to her daughter, C.P., totaling \$56,895.91. At the hearing, C.P. testified that the transfers were payments to her for rent owed by Petitioner. In support of her arguments, C.P. provided unsigned, undated lease agreements that state all monies due to C.P. had been paid. Furthermore, as the ALJ points out, the amounts transferred in October 2015 and January 2016 do not equal the amount of rent anticipated in the leases

¹ 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).

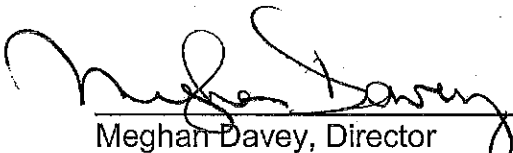
from 2010 through 2016. Claims that the transfers were payment for rent owed to C.P. are unsupported by the record.

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 17th day of NOVEMBER 2016,

ORDERED:

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



Meghan Davey, Director
Division of Medical Assistance
and Health Services