



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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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.B.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
MORRIS COUNTY BOARD
OF SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 17240-16

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. Neither
Party filed exceptions to the Initial Decision. Procedurally, the time period for the
Agency Head to file a Final Agency Decision in this matter is June 9, 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 receipt. The Initial Decision in this matter was received on April 25, 2017.

At issue is a 405 day penalty imposed due to Petitioner's transfers totaling \$134,065.65. 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. 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). The Administrative Law Judge found that the Petitioner had failed to meet her burden of proof that the resources were transferred for some reason other than to qualify for Medicaid and affirmed the transfer penalty. After reviewing the record, I concur with the ALJ's finding and ADOPT the Initial Decision in its entirety.

Furthermore, the record shows that Petitioner has failed to timely request or qualify for an undue hardship exception. N.J.A.C. 10:71-4.10q(1)(i) provides that undue hardship exists when a transfer penalty "would deprive the applicant/beneficiary of medical care such that his or her health or his or her life would be endangered" and when "the transferred assets are beyond his or her control and that the assets cannot be recovered. The applicant/beneficiary shall

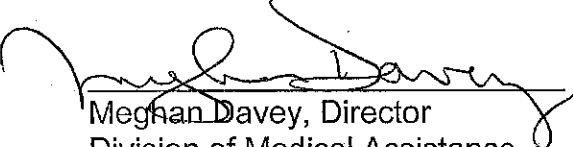
demonstrate that he or she made good faith efforts, including exhaustion of remedies available at law or in equity, to recover the assets transferred." Petitioner's representative did not request a waiver of the transfer penalty nor did they demonstrate the transferred assets are beyond her control and cannot be recovered. As a result, the ALJ correctly concluded the Petitioner did not meet the requirements for the undue hardship exception.

Petitioner was unable to provide any corroborating evidence to establish that the transfers were done for a purpose other than to qualify for Medicaid benefits.

THEREFORE, it is on this 9th day of JUNE 2017,

ORDERED:

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


Meghan Davey, Director
Division of Medical Assistance
and Health Services