



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

B.Z.,	:	
	:	
PETITIONER,	:	<b>ADMINISTRATIVE ACTION</b>
	:	
v.	:	<b>FINAL AGENCY DECISION</b>
	:	
DIVISION OF MEDICAL ASSISTANCE	:	<b>OAL DKT. NO. HMA 4615-2017</b>
	:	
AND HEALTH SERVICES AND	:	
	:	
OCEAN COUNTY BOARD OF	:	
	:	
SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

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 September 28, 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 August 14, 2017.

The matter arises regarding the imposition of a transfer penalty. Petitioner applied for benefits in June 2016 having moved here to be closer to family. Ocean County determined she was eligible as of March 1, 2016 but subject to a penalty of \$211,873.63. At issue are the purchase of real property in 2016, the sale of real property in 2011 and various checks Petitioner and her husband wrote during the lookback period.

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 Initial Decision held that Petitioner had provided adequate proof that the financial arrangement her husband entered into with her relatives to title the home in his name so that they could obtain financing to purchase a property in New Jersey was not for the purpose of qualifying for Medicaid. This arrangement began in 2003 when Petitioner’s relatives sought to use her husband’s creditworthiness to obtain a mortgage to purchase a home. At the time Petitioner and her husband lived out of state and never took up residence in the property. I am satisfied that the documents show that

Petitioner's husband's transactions on the property were premised on aiding a family member and not qualifying for Medicaid.

Likewise, the purchase of a home in 2016 after Petitioner had moved to New Jersey for a price well above the assessed value was demonstrated to be based on a bidding war on the property. Petitioner produced testimony from an appraiser as well as contemporaneous documentation about the series of offers from her husband and a competing buyer that resulted in his best and final offer being accepted. This was an arm's length transaction between Petitioner's husband and the seller and the price above the appraised value is indicative of market forces.


However, the Initial Decision found that, except for the payment of airline tickets, the remaining transferred amount of \$74,500 was a transfer for less than fair market value and subject to a penalty. The testimony surrounding these transfers was found to be "inconsistent." ID at 7. There is no evidence of Petitioner's condition prior to the need for nursing home care so as to support the claim of sudden onset of disability.

Based on my review of the record, I concur with the Initial Decision that Petitioner failed to demonstrate that she transferred \$74,400 solely for a purpose other than qualifying for Medicaid. Ocean County shall assess the penalty based on that amount.

THEREFORE, it is on this <sup>5<sup>th</sup></sup> day of SEPTEMBER,

ORDERED:

That the Initial Decision is hereby ADOPTED.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services