



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

E.G.,
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 519-2017

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. Neither party filed exceptions. Procedurally, the time period for the Agency Head to file a Final Decision is April 20, 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 was received on March 6, 2017.

The matter arises regarding the imposition of a transfer penalty of \$53,500. Morris County reduced the penalty to \$38,500. Petitioner does not contest \$25,000 of the transfers but claims the remaining \$13,500 should not be penalized. The funds were transferred between 2012 and 2014 and stem from the proceeds from the sale of Petitioner's co-op apartment in October 2012 and Petitioner's settlement of a lawsuit in May 2013. To support her argument Petitioner produced checks her children wrote to her co-op associates to clear maintenance arrearages, a certification from Petitioner and recent emails from her family. ID at 4.

There is a presumption that any transfer for less than fair market value during the look-back period was made for the purpose of establishing Medicaid eligibility. N.J.A.C. 10:71-4.10(i). The applicant "may rebut the presumption that assets were transferred to establish Medicaid eligibility 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 burden of proof in rebutting this presumption is on the applicant. Ibid. The regulations also provide that, "if the applicant had some other purpose for transferring the asset, but establishing Medicaid eligibility appears to have been a factor in his or her decision to transfer, the presumption shall not be considered successfully rebutted." N.J.A.C. 10:71-4.10(l)2.


The ALJ's review of the documents and observation of the testimony led to the finding that ~~\$8,000 was proper reimbursement for expenses for Petitioner's care at two facilities and to clear the arrearages on her co-op association account.~~ ID at 5. The Initial Decision determined that Petitioner had failed to demonstrate that the remaining \$5,500 were for fair market value. ID at 5.

For the reasons set forth above and in the Initial Decision, I FIND that \$8,000 of the disputed amount was transferred for fair market value and that the penalty should be reduced to \$30,500. Thus, I hereby ADOPT the Initial Decision in its entirety.

THEREFORE, it is on this ^{14th} day of APRIL 2017,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services