

State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P.O. Box 712

P.O. Box 712 Trenton, NJ 08625-0712 ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO Lt. Governor

CHRIS CHRISTIE

Governor

MEGHAN DAVEY Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

E.M.,

PETITIONER,

ADMINISTRATIVE ACTION

ν

FINAL AGENCY DECISION

DIVISION OF MEDICAL ASSISTANCE

OAL DKT. NO. HMA 05089-17

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 matter, consisting of the Initial Decision, the documents in evidence and the entire contents of the OAL case file. No exceptions to the Initial Decision were filed. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 23, 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 the agency's receipt. The Initial Decision was received on September 7, 2017.

At issue is the penalty imposed due to Petitioner's transfers totaling \$83,544. The ALJ found that the penalty should be reduced by \$11,615, as this amount was for documented expenses paid on Petitioner's behalf. The ALJ further found that Petitioner had not demonstrated that the remaining \$71,939 was transferred for fair market value,

resulting in a 216-day period of ineligibility. After reviewing the record, I concur with the ALJ's findings and hereby ADOPT them in their entirety

Any transfer for less than fair market value during the look-back period is presumed to have been made for the purpose of establishing Medicaid eligibility. E.S. v. Division of Medical Assistance & Health Services, 412 N.J. Super. 340, 353 (App. Div. 2010); N.J.A.C. 10:71-4.10(i). As noted in the Initial Decision, it is the applicant's burden to rebut this presumption 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). Moreover, pursuant to N.J.A.C. 10:71-4.10(b)6.ii, care and services provided for free in the past are presumed to have been intended to be delivered without compensation. If payment is to be made there must a preexisting written agreement to pay for such services at a fair market rate. In this case, there was no agreement to compensate Petitioner's children for her care.

THEREFORE, it is on this

day of October 2017,

ORDERED:

That the Initial Decision imposing a \$71,939 transfer penalty is hereby ADOPTED as the Final Agency Decision.

Meghan Davey, Director

Division of Medical Assistance

and Health Services