



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

G.B.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
BURLINGTON COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 5584-2017

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. No exceptions were filed. Procedurally, the time period for the Agency Head to file a Final Decision is October 10, 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 August 24, 2017.

The matter arises regarding the imposition of a transfer penalty. Burlington County had imposed a penalty for transfers totaling \$80,123. Petitioner appealed that action.

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.

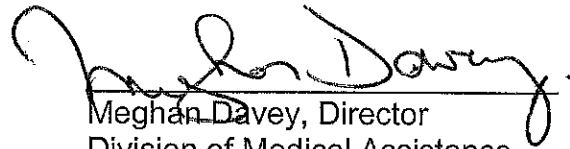
The Initial Decision determined that the transfers were made to pay for her food, shelter, medical and personal needs. Petitioner had lived with her daughter and son-in-law for over thirty years. She had one savings account and a small retirement account worth \$3,760. She did not have a checking account or any credit cards in her name. After Petitioner's income was transferred into her daughter's account, it was used to pay for her expenses. Petitioner's daughter could not account for all of the expenses. As the ALJ noted, the expenses that were demonstrated do not include any apportioned shelter costs. As the amount transferred to the daughter's account was nearly equal to her income over that period and based on the evidence contained in the record, it is reasonable to conclude that the transfers of Petitioner's resources were used for her

living expenses during the look back period. Thus, for the reasons set forth above, I hereby ADOPT the Initial Decision.

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

ORDERED:

That the Initial Decision is hereby ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services