



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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KIM GUADAGNO
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MEGHAN DAVEY
Director

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

G.C.1,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
MONMOUTH COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 10747-2016

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 January 9, 2017, in accordance with N.J.S.A.

1 Although the matter is captioned under G.C.'s name, the Medicaid applicant is his mother. L.C. and she is referred to as Petitioner in this decision.

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 November 25, 2016.

The matter arises regarding the imposition of a transfer penalty. Petitioner applied for Medicaid on February 22, 2016. Monmouth County Board of Social Services found Petitioner otherwise eligible as of March 1, 2016 and imposed a transfer penalty of 442 days due to a transfer of \$147,331.27. ID at 2. Petitioner, through her Power of Attorney and son, appealed the penalty.²

There is a rebuttable presumption that transfers done within five years of institutionalization were done to qualify for Medicaid. The regulation places the burden of demonstrating that the transfer was done exclusively for another purpose on the Petitioner. N.J.A.C. 10:71-4.10(k). The Initial Decision held that Petitioner failed to rebut the presumption or to establish that she received fair market value for the funds she transferred. I have reviewed the record and concur.

N.J.A.C. 10:71-10(j) sets forth how an individual can rebut the presumption that a transfer for less than fair market value was made to qualify for Medicaid. Factors which may indicate that the transfer was for some other purpose:

The presence of one or more of the following factors, while not conclusive, may indicate that resources were transferred exclusively for some purpose other than establishing Medicaid eligibility.

1. The occurrence after transfer of the resource of:
 - i. Traumatic onset of disability;
 - ii. Unexpected loss of other resources which would have precluded Medicaid eligibility;
 - iii. Unexpected loss of income which would have precluded Medicaid eligibility.
2. Resources that would have been below the resource limit during each of the preceding 30 months if the transferred resource has been retained.
3. Court-ordered transfer.
4. Evidence of good faith effort to transfer the resource at FMV.

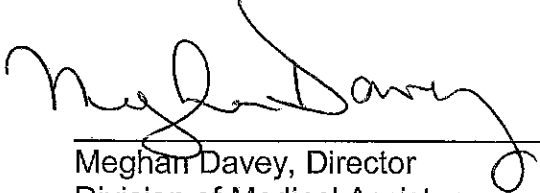
² The Initial Decision notes that L.C. is no longer in a Medicaid nursing home, having been transferred to the New Jersey State Veterans Memorial Home at Menlo Park.

Petitioner's son claims that his mother's health was failing for the four years prior to applying for Medicaid so that her need for care was known. R-4. The money was removed from her account in round figures. There are no payments to creditors or utility companies that might explain Petitioner contributing to the family's expenses. Rather it appears to be a wholesale gift of Petitioner's income and resources. Petitioner's co-ownership of her home with her son is of recent vintage as evidenced by the March 2009 deed. When the property was sold in December 2012 Petitioner's son received his share and Petitioner's share of the proceeds. Thus, IFIND that Petitioner has not rebutted the presumption that the funds were transferred so as to apply for Medicaid and hereby ADOPT the Initial Decision.

THEREFORE, it is on this ^{20th} day of DECEMBER 2016,

ORDERED:

That the Initial Decision is hereby ADOPTED in its entirety.



Meghan Davey, Director
Division of Medical Assistance
and Health Services