



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**

L.Z.,

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 15470-16

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the documents in evidence. Neither Party filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is April

27, 2017, in accordance with an Order of Extension. The Initial Decision in this matter was received on January 25, 2017.

At issue is a 103 day penalty imposed due to Petitioner's transfers totaling \$34,467. 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).

At issue are eleven transfers totaling \$34,467. Petitioner bears the burden of proof to demonstrate that he received fair market value for the assets transferred. N.J.A.C. 10:71-4.10(j). A.M. and E.T. testified on behalf of the Petitioner at the Office of Administrative Law (OAL) hearing.¹ Neither was able to


¹ Petitioner was deceased at the time of the OAL hearing. The ALJ correctly noted that neither of Petitioner's representatives had standing to pursue this issue on behalf of Petitioner pursuant to N.J.A.C. 1:1-5.4. Any future action on behalf of Petitioner will require appropriate representation of Petitioner's estate.

provide verification or valid explanation with regard to the transfers in question. Petitioner was unable to provide any evidence to establish that the transfers were done for a purpose other than to qualify for Medicaid benefits.

THEREFORE, it is on this 30 day of APRIL 2017,

ORDERED:

That the Initial Decision affirming the transfer penalty is hereby ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services