



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

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Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

M.G.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 16652-16
AND HEALTH SERVICES AND	:	
CAPE MAY 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. Respondent filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is May 1, 2017, in accordance with an Order of Extension. The Initial Decision was received on January 31, 2017.

This matter stems from the imposition of a period of ineligibility based upon a transfer of \$2500 during the look back period. At issue are three checks written to Petitioner's family members: (1) An April 5, 2012 check for \$1,000 to Petitioner's niece; (2) a November 9, 2013 check for \$500 to Petitioner's granddaughter and (3) an October 11, 2014 check for \$1,000 to Petitioner's granddaughter. As a result, Cape May County Board of Social Services (CMCBSS) assessed a seven day penalty. The ALJ however, excluded the \$1,000 to Petitioner's niece because it was used to pay for Petitioner's sister's medical care and also excluded \$200 from the remaining balance finding that a gift of \$100 or less is not subject to a transfer penalty. The ALJ reversed the penalty finding that Petitioner has rebutted the presumption that these transfers were made to qualify for Medicaid. I disagree. For the reasons which follow, I disagree with this finding and REVERSE the Initial Decision.

The regulation places the burden on the applicant of demonstrating that the transfer was done exclusively for some other purpose than applying for Medicaid benefits. N.J.A.C. 10:71-4.10. Petitioner must overcome the presumption that the transfer was done – even in part – to establish Medicaid. N.J.A.C. 10:71-4.10(j). Petitioner is ninety years old. Her son, T.G. testified on her behalf at the hearing that the \$1,000 transferred to Petitioner's niece was used to pay for Petitioner's sisters medical bills. He also testified that the \$500 to Petitioner's daughter was a birthday gift and the second \$1,000 transfer to Petitioner's granddaughter was a birthday gift/ student loan gift.

T.G. provided no documentary evidence to support his testimony that the money was used to pay for medical bills, or that any portion of the checks were gifts for her granddaughter's graduation or birthday. Furthermore, there is simply

no regulatory authority which exempts gifts under \$100 from the transfer rules. See N.J.A.C. 10:71-4.10. As a result, Cape May County shall apply the penalty period as originally calculated.

THEREFORE, it is on this 17th day of APRIL 2017

ORDERED:

That the Initial Decision is hereby MODIFIED such that Petitioner is subject to a transfer penalty of 7 days.



Meghan Davey, Director
Division of Medical Assistance
and Health Services