



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

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Lt. Governor

CAROLE JOHNSON
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

E.K.

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
CAMDEN COUNTY BOARD OF
SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 08571-19

As the Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, consisting of the Initial Decision, the documents in evidence and the entire contents of the OAL file. Neither Party filed Exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is July 13, 2020 in accordance with an Order of Extension. The Initial Decision in this case was received on April 14, 2020.

The matter arises from Petitioner's February 16, 2018 Medicaid application. At issue is a \$68,304.39 transfer to Petitioner's daughter, T.F. 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.¹ N.J.A.C. 10:71-4.10 (c). "A transfer penalty is the delay in Medicaid eligibility triggered by the disposal of financial resources at less than fair market value during the look-back period." E.S. v. Div. of Med. Assist. & Health Servs., 412 N.J. Super. 340, 344 (App. Div. 2010). "[T]ransfers of assets or income are closely scrutinized to determine if they were made for the sole purpose of Medicaid qualification." Ibid. Congress's imposition of a penalty for the disposal of assets for less than fair market value during or after the look-back period is "intended to maximize the resources for Medicaid for those truly in need." Ibid. 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).

T.F. asserted that some of the transferred funds were used for her mother's care. However, she did not keep complete records of the transfers because they did not intend to place Petitioner in a nursing home. While Petitioner provided some bills, she was not able to establish how, or from what source, those bills were paid. Accordingly, the ALJ found that Petitioner failed to meet her burden of proof to establish that Petitioner received fair market

¹ Congress understands that applicants and their families contemplate positioning assets to achieve Medicaid benefits long before ever applying. To that end, Congress extended the look back period from three years to five years. Deficit Reduction Act of 2005, P.L. 109-171, § 6011 (Feb. 8, 2006).

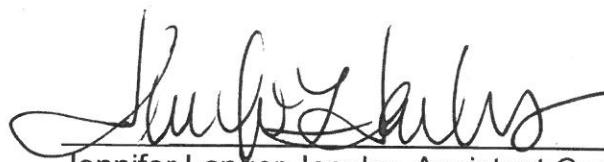
value for the assets transferred to T.F., nor was she able to show that all of the assets transferred were returned to her. 42 U.S.C. §1396p(c)(2)(C).

Based on my review of the record and for the reasons set forth above, I hereby ADOPT the Initial Decision and uphold the transfer penalty.

THEREFORE, it is on this 2nd day of MAY 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services