



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

PO Box 712

TRENTON, NJ 08625-0712

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SARAH ADELMAN
Acting Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

F.K.

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 5111-2020

As Assistant Commissioner 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. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is May 13, 2021 in accordance with an Order of Extension.

The matter arises regarding the imposition of a transfer penalty on Petitioner's sixth

application filed in September 2019. Petitioner, who had suffered a stroke in 2007, was found eligible October 1, 2019 but subject to a transfer penalty of 381 days due to the transfer of \$134,272.58 to his mother from the proceeds of the sale of his home.¹ This amount represents the net amount from the sale of the property. Petitioner claimed that the transfers were done in accordance with two promissory notes.

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).

Petitioner's sister testified at the hearing. Petitioner's mother had passed away in 2018. His sister contended that their mother had paid Petitioner's bills in the past and presented a promissory note in the amount of \$140,000 when Petitioner's house sold in February 2017. ID at 3. The note was dated January 2017. R-1. There was another promissory note dated February 2016 in the amount of \$30,901.78 and secured by Petitioner's property. P-2. In March 2017 Petitioner's mother received a demand letter

¹ I note that Petitioner receives Supplemental Security Income (SSI) which confers Medicaid eligibility. ID at 3. According to eligibility print-out, SSI benefits ceased in 2019 and Morris County reviewed his eligibility. R-1 at 39. That review revealed the sale of the home and the transfer of assets.

from the lender for the principal plus \$497.81 in interest. P-1.

The Initial Decision found that the repayment of \$31,399.59 from the proceeds of the sale of Petitioner's home was for fair market value and done exclusively for a purpose other than applying for Medicaid. The note and the check, from the lender, payable to Petitioner's mortgage company were executed on the same day. P-2 and P-3. Petitioner received the value of the loan through the payment of his mortgage and was obligated to repay the funds at the time of sale.

Conversely, the Initial Decision found that there was no documentation that the promissory note with Petitioner's mother was for fair market value. The note is signed a month before closing on his house. Unlike the February 2016 note, there is nothing to show Petitioner received something of value or that there was a legitimate debt, such as payment of outstanding bills by his mother, to rebut the presumption that the transfer of the remaining \$102,872.99 was done to qualify for Medicaid benefits.

Thus, for the reasons set forth above, I hereby ADOPT the Initial Decision's finding that the transferred amount should be reduced by \$31,399.59 and result in a transfer penalty of 292 days.

THEREFORE, it is on this ^{25th} day of APRIL 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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