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

D.O., PETITIONER, v. DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES AND UNION COUNTY BOARD OF SOCIAL SERVICES, RESPONDENTS.	**ADMINISTRATIVE ACTION** **FINAL AGENCY DECISION** **OAL DKT. NO. HMA 09115-26**

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is September 21, 2026, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of Medicaid benefits. By letter dated April 27, 2026, the Union County Board of Social

Services (Union County) advised Petitioner that a penalty of 537 days was assessed on Petitioner's receipt of Medicaid benefits resulting from the transfer of assets totaling $216,650 for less than fair market value, during the five-year look-back period. (R-8). Petitioner appealed the transfer penalty. The Initial Decision found that Petitioner had failed to rebut the presumption that $214,250 in transfers were done for the purposes of qualifying for Medicaid benefits.[1]

In determining Medicaid eligibility for someone seeking institutionalized benefits, counties must review five years of financial history. Under the regulations, "[i]f an individual, or his or her spouse . . . (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). "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.

The applicant "may rebut the presumption that assets were transferred to establish Medicaid eligibility 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). The burden of proof in rebutting this presumption is on the applicant. Ibid. The regulations also provide that "if the applicant had some other purpose for transferring the asset, but

[1] The transfer penalty amount was reduced, as a $2,400 transfer was outside of the 5-year lookback period.

establishing Medicaid eligibility appears to have been a factor in his or her decision to transfer, the presumption shall not be considered successfully rebutted." N.J.A.C. 10:71-4.10(i)2.

In this matter, from December 2021 through October 2024, prior to entering a nursing home and applying for MLTSS, Petitioner wrote checks to his daughter, M.M. ranging from $2,000 to $3,500. ID at 3. Additionally, there were withdrawals from Petitioner's bank account ranging from $2,000 to $3,000 from June 2020 through July 2022. Ibid. Lastly, there were two transfers from Petitioner to M.M. in the amounts of $5,000 and $10,000 on February 18, 2025, and March 12, 2025, respectively. Ibid.

During the fair hearing, M.M. testified that she used the money that was paid to her to pay Florence Guzman for D.O.'s care from December 2021 through October 2024. Ibid. For some of the same period that M.M. paid Ms. Guzman, she also paid Helping Homecare, LLC, for the personal care provided to Petitioner from October 2022 to October 2024. ID at 3 (R-5). Regarding the two transfers from Petitioner to M.M., she testified that the transfers were reimbursement for money she loaned Petitioner. ID at 3.

In the Initial Decision, the Administrative Law Judge (ALJ) found as fact that Petitioner did not rebut the presumption that assets were transferred to establish Medicaid eligibility as Petitioner did not submit any evidence that memorialized the hours worked. ID at 3. Additionally, the ALJ found that Petitioner did not present any evidence to substantiate that Ms. Guzman was a certified nursing assistant or a licensed home health aid. Ibid. Likewise, Petitioner did not present a contract or agreement to memorialize the terms of care and employment. Ibid. Lastly, the ALJ found that the payments made to Ms. Guzman were not deducted as medical expenses on Petitioner's tax returns. Ibid.

As to the penalized withdrawals, the ALJ found as fact that Petitioner did not present any evidence regarding the purpose of the withdrawals from Petitioner's bank

account that occurred between June 2020 to July 2022. ID at 3.

Lastly, regarding the two transfers from Petitioner to M.M., the ALJ found that there was no promissory note or other documentation substantiating that M.M. loaned Petitioner money. ID at 3.

In conclusion, the ALJ held that all of the transfers in question occurred within the sixty-month lookback period, with the exception of the June 12, 2020 withdrawal in the amount of $2,400. ID at 5. As to all of the other transfers, the ALJ held that Petitioner did not present convincing evidence that the transfers were made for a purpose other than to establish Medicaid eligibility. Ibid. Petitioner did not present any caregiving agreement with Ms. Guzman that predated the transfers and no evidence that Petitioner's caregiver was certified to provide care as a certified nursing assistant or licensed home health aide. Ibid. Additionally, no evidence was presented of what services were provided by whom and when those services were provided. Ibid. The ALJ pointed out that Ms. Guzman's expenses were not deducted as medical expenses on Petitioner's tax returns, which cast doubt that these payments were for a purpose other than to establish Medicaid eligibility. Ibid. Regarding the withdrawals that were made and the two transfers, the ALJ held that no evidence was submitted to prove that they were for a reason other than to qualify for Medicaid. Ibid. In conclusion, the ALJ ordered that Petitioner is subject to a transfer penalty of 531 days under N.J.A.C. 10:71-4.10. I agree.

Petitioner failed to produce any documentation that would support the assertion that funds were used to pay for the caregiving services; no pre-existing caregiving agreements, records, invoices, contracts, receipts, or logs were produced. N.J.A.C. 10:71-4.10(b)(6)(ii) provides that "[i]n regard to transfers intended to compensate a friend or relative for care or services provided in the past, care and services provided for free at the time they were delivered shall be presumed to have been intended to be delivered

without compensation." However, this "presumption may be rebutted by the presentation of credible documentary evidence preexisting the delivery of care or services indicating the type and the terms of compensation [and] the fair market value of the transferred asset shall not be greater than the prevailing rates for similar care or services in the community." Thus, Petitioner bears the burden to demonstrate, through credible documentary evidence, that an agreement establishing the services and compensatory existed prior to the services being rendered and that the compensation for the rendered services was equal to the prevailing rates for similar services.

Thus, based on the record before me and for the reasons enumerated above, I hereby ADOPT the Initial Decision and FIND that a transfer penalty of 531 days was appropriate.

THEREFORE, it is on this 18th day of SEPTEMBER, 2026

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services