



Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt.

This matter arises from the determination of the Atlantic County Department of Family and Community Development (Atlantic County) to impose a transfer penalty based on Petitioner's transfer of assets for less than fair market value. The central issue presented here is whether Atlantic County properly applied N.J.A.C. 10:71-4.10 in assessing a transfer penalty totaling \$131,942.

The evidence establishes that Petitioner's designated authorized representative, Gonzalves, applied on behalf of Petitioner for Medicaid benefits under the Managed Long-Term Services and Supports (MLTSS) program. (R-1 at 2-7.) In a notice dated August 1, 2025, Atlantic County determined that Petitioner was eligible for MLTSS but imposed a 327-day penalty period based on the transfer of assets totaling \$131,942 for less than fair market value. Ibid. Atlantic County established an eligibility date of June 1, 2025, as Petitioner's Preadmission Screening (PAS) was not completed until June, and Medicaid benefits cannot be authorized absent PAS approval. Ibid.

The penalty was based on the following transfers: \$80,538.30 to Petitioner's daughter, B.B.; \$7,969.70 to Petitioner's son, H.L.; \$850 for alleged customary holiday gifts; \$42,584 to F.B. for housekeeping and overnight companionship. (R-1 at 10-38.)

On October 14, 2025, Petitioner appealed Atlantic County's determination. ID at 2. The Administrative Law Judge (ALJ) conducted a hearing, evaluated witness testimony, and made credibility determinations that are entitled to deference. ID at 5. During the hearing, Gonzalves and F.B. testified on behalf of Petitioner. Ibid. While the ALJ found the testimony of Petitioner's witnesses to be sincere, the testimony was inconsistent, unsupported by documentary evidence, and insufficient to establish that the transfers were made for fair market value or for purposes unrelated to Medicaid eligibility.

The ALJ found F.B.'s testimony sincere; however, F.B. did not provide clear information regarding the specific time periods during which services were performed, the exact nature of those services for Petitioner, or any supporting documentation such as signed agreements or verified records of dates and hours worked. Ibid. The ALJ also found portions of F.B.'s testimony inconsistent with other evidence in the record. Ibid. For instance, F.B. indicated that she was paid \$60 per day for cleaning, while B.B.'s affidavit stated a rate of \$60 per hour. Ibid. F.B. also testified to receiving \$12 per hour for companionship services, whereas B.B.'s affidavit reported \$10 per hour for overnight companionship. Ibid. Furthermore, although B.B.'s affidavit claimed that services were paid for from 2020 through 2024, no payment records were introduced, leaving these discrepancies unresolved. Ibid. During the hearing, Atlantic County agreed to remove the penalty associated with the \$7,969.70 transfer after determining it was used to purchase a Medicaid-compliant annuity. ID at 4.

The ALJ concluded that three transfers were properly penalized because they were not proven to be at fair market value. ID at 8. Only the \$7,969.70 annuity-related transfer qualified as exempt. Ibid. I concur with the ALJ's findings and conclusion.

When determining Medicaid eligibility for individuals seeking institutional level of care benefits, the counties must review a five-year of financial history. Under the Deficit Reduction Act (DRA) of 2005, if an applicant transfers assets for less than the fair market value during the look-back period, then those assets are included as eligible resources available to the applicant, and a period of ineligibility is imposed, which is known as the transfer penalty. 42 U.S.C. §1396p(c)(1); N.J.A.C. 10:71-4.10(a).

Medicaid law contains a presumption that any transfer for less than fair market value during the look-back period was made for the purpose of establishing Medicaid eligibility. See E.S. v. Div. of Med. Assist. & Health Servs., 412 N.J. Super. 340 (App. Div.

2010); N.J.A.C. 10:71-4.10(i). 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 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.

After carefully reading the record, I FIND that Petitioner has failed to meet this burden. Specifically:

- 1) The transfer of approximately \$80,538 to B.B. was expressly acknowledged as not being for fair market value and was properly penalized.
- 2) \$850 in purported “customary gifts” was not substantiated by sufficient evidence demonstrating a consistent and documented gift pattern sufficient to overcome the regulatory presumption.
- 3) \$42,584 paid to F.B. for alleged caregiving services was unsupported by credible, consistent evidence establishing fair-market-value compensation.

The inconsistencies in testimony, combined with the absence of corroborating documentation, render Petitioner’s explanations insufficient as a matter of law.

However, I concur with the ALJ’s determination that the \$7,969.70 transfer related to a Medicaid-compliant annuity was properly excluded from the penalty. The finding reflects a careful and balanced application of the law to the facts.

Accordingly, I FIND that Petitioner has not rebutted the presumption, pursuant to N.J.A.C. 10:71-4.10, that the remaining three transfers were made for the purpose of establishing Medicaid eligibility. The record lacks sufficient credible documentation to

support Petitioner's assertions regarding the nature of the transfers, and the inconsistencies in testimony further undermine those claims.

Therefore, based on the foregoing, the Initial Decision is ADOPTED in full.

It is ORDERED that Atlantic County shall recalculate the transfer penalty consistent with this Final Agency Decision, excluding only the \$7,969.70 annuity-related transfer.

THEREFORE, it is on this 12th day of MAY 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.

*Gregory Woods*

---

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