



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Medical Assistance and Health Services

P.O. Box 712

Trenton, NJ 08625

MIKIE SHERRILL
Governor

STEPHEN CHA, MD, MHSR
Commissioner

DR. DALE G. CALDWELL
Lt. Governor

GREGORY WOODS
Assistant Commissioner

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

L.R.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES AND :

HUDSON COUNTY DEPARTMENT :

OF FAMILY SERVICES, :

RESPONDENTS. :

ADMINISTRATIVE ACTION

ORDER OF REMAND

OAL DKT. NO. HMA 01166-26N

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the entire record in this case, including the Office of Administrative Law case file, all documents in evidence, and the Initial Decision. Hudson County Department of Family Services (Hudson County) submitted timely exceptions to the Initial Decision. Pursuant to N.J.S.A. 52:14B-10, the procedural



STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW

33 Washington Street
Newark, NJ 07102
(973)-648-7136

9 Quakerbridge Plaza / PO Box 049
Trenton, NJ 08625-0049
609-689-4030

HMA

FROM:
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

NAME OF AGENCY

P O BOX 712
TRENTON, NJ 08625-0712

ADDRESS

Arij Syed, Esq.

TRANSMITTING OFFICER

(609) 588-2655

TELEPHONE NUMBER

COUNTY Hudson

JURISDICTION North

THE FOLLOWING ADDITIONAL INFORMATION IS REQUIRED:

1. Nature of the case. Please include references to statutes or rules and briefly summarize the facts and law involved. Attach pleadings to this form.

2. Estimated time required for hearing.

3. Legal requirements (State or Federal) mandating a date for Agency Decision:

4. Is court stenographer requested?

5. Special features to be anticipated in this matter, i.e. emergent relief, discovery motions, prehearing conference, conference hearing, remand, expedited hearings, location (county).

6. Is a barrier-free location needed?

7. Have the attached documents been exchanged between the parties?

8. Names of other agencies claiming jurisdiction over transmitted dispute:

Leonor Rozencvaig

VS
Hudson County Department of Family Services

Name of Contested Case or Short Title

Agency Docket / Reference Number

Petitioner appeals Medicaid transfer penalty

Day(s) or 1 Hours

☒ Yes ☐ No If yes, please specify requirements and citation:

☐ Yes ☒ No

Hudson
REMAND

☐ Yes ☒ No ☐ Uncertain

☒ Yes ☐ No If no, the documents shall be served on or offered to parties on:

Transmitting officer or other agency personnel to receive notices of hearing etc., pursuant to N.J.A.C. 1:1-8.2 (a) 13. This person need not be served by the parties with motions, correspondence, etc.

Arij Syed, Esq.

TRANSMITTAL OFFICER

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

P O BOX 712

TRENTON, NJ 08625-0712

Telephone #: (609) 588-2655

SERVICE LIST

Parties Named in this Proceeding and their Representatives.

For additional parties, attach names, addresses and telephone numbers of each party linked with that representative if any.

PETITIONER

#1 Leonor Rozencvaig

6120 Bergenline Ave

West New York, NJ 07093

Telephone #: 2018679310

E-Mail:

PETITIONER REPRESENTATIVE

#1. Adolfo L. Lopez, Esq.

6120 Bergenline Ave

West New York, NJ 07093

Telephone #: 2018679310

E-Mail:

RESPONDENT

#2. Osvaldo Vagni

Hudson County Department of Family Services

257 Cernelison Ave.

Fair Hearing Unit Room 6003

Jersey City, NJ 07302

Phone #: 201-420-3000, ext. 3138

E-Mail: ovagni@hcds.us

RESPONDENT REPRESENTATIVE

OTHER

#3.

Telephone #:

E-Mail:

OTHER REPRESENTATIVE

Telephone #:

E-Mail:



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Medical Assistance and Health Services

P.O. Box 712

Trenton, NJ 08625

MIKIE SHERRILL
Governor

STEPHEN CHA, MD, MHSR
Commissioner

DR. DALE G. CALDWELL
Lt. Governor

GREGORY WOODS
Assistant Commissioner

June 22, 2026

Ashley N. Vaivada, Esq.
Deputy Clerk
Office of Administrative Law
33 Washington Street
Newark, NJ 07102

Re: L.R. v. Hudson County Department of Family Services
OAL DKT NO. HMA 01166-26N
Remand

Dear Ms. Vaivada:

Please be advised that the Initial Decision in the above-referenced matter has been remanded by the Assistant Commissioner for further proceedings consistent with the Order of Remand.

Enclosed please find the new transmittal forms, along with the case file from the prior hearing. Should you have any questions or need additional information, please contact me.

Sincerely,

Ilaha Dorsey

Ilaha Dorsey,
Office of Legal & Regulatory Liaison

C: Petitioner- Adolfo L. Lopez, Esq.
Respondent- Divya Ramdoyal

deadline for the Agency Head to issue a Final Agency Decision is June 22, 2026, which requires the Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt.

This matter concerns Hudson County's determination to impose a transfer penalty based on Petitioner's transfer of assets for less than fair market value. The main issue presented here is whether Hudson County correctly applied N.J.A.C. 10:71-4.10 in assessing a transfer penalty totaling \$372,199.98.

Petitioner, a ninety-eight-year-old Medicaid applicant with severe medical conditions and dementia, applied for Managed-Long-Term Services and Supports (MLTSS) Medicaid benefits in 2025. (R-3.) According to the 2025 application, Petitioner has Medicare and Blue Cross/Blue Shield coverage. Ibid. Hudson County approved Petitioner's application but imposed a transfer penalty of 924 days, from May 1, 2025, to November 10, 2027, because \$372,133.98 was transferred during the Medicaid look-back period. (R-4.) The May 2025 application was Petitioner's second; Petitioner submitted the initial MLTSS application in 2018. (R-2.) Hudson County calculated the penalty based on the 2018 application. (R-1.)

The funds in question came from the sale of Petitioner's marital home in Florida for \$372,199.98 following the death of their spouse in 2003 or 2004. ID at 3. The funds were deposited into a bank account and later withdrawn or distributed for several purposes during the look-back period, including:

- \$124,220.03 was transferred from L.R. and L.R.'s daughter, P.R.'s Banco Popular account, to P.R. and her husband's account on December 4, 2013.
- A withdrawal of \$93,917.18 was made from L.R.'s account; however, the receiving depository account is unknown.

exception under N.J.A.C. 10:71-4.10(q) and maintains that the transfer penalty was properly imposed and should remain in effect.

When determining Medicaid eligibility for individuals seeking an institutional level of care, 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).

In addition to rebutting the presumption, an applicant may also be exempt from a transfer penalty (or the penalty may be waived) due to undue hardship. N.J.A.C. 10:71-4.10(q). Undue hardship exists if a transfer penalty would deprive the individual of medical care such that the individual's health or life would be endangered or would deprive the individual of food, clothing, shelter, or other necessities of life, and the individual can irrefutably show that the transferred assets are beyond her control and that

- A withdrawal of \$48,787.47 was made from Petitioner's Banco Popular account, but the destination account is unknown.
- A withdrawal of \$82,360.25 was made from Petitioner's account, but the destination account is unknown.
- \$22,849.05 was withdrawn from Petitioner's account and deposited into the Franklin Templeton College 529 Plan account for the benefit of Petitioner's great-grandson. ID at 4.

P.R., who had cared for Petitioner since 2003, asserted that the transfers were not made to qualify Medicaid. ID at 5. P.R. testified that the money was spent on Petitioner's housing, healthcare aides, food supplements, transportation, hygiene items, and daily care. Ibid. However, P.R. could not provide receipts, contracts, billing records, or financial documentation supporting these expenditures because the records no longer existed, and Petitioner's dementia prevented reconstruction of the transactions. Ibid.

The Administrative Judge (ALJ) determined that the transfers were made for less than fair market value; gifts to relatives and college funds constituted uncompensated transfers; and Petitioner failed to rebut the Medicaid presumption that the transfers were made, at least in part, to obtain Medicaid benefits. ID at 8-10. Ibid. However, the ALJ found that Petitioner qualified for an undue hardship waiver under N.J.A.C. 10:71-4.10(q) due to Petitioner's advanced age and severe medical condition, the inability to recover transferred assets, and the likelihood that denial of Medicaid would endanger Petitioner's health and deprive them of necessary medical care. Ibid. Accordingly, the ALJ waived the transfer penalty and found Petitioner to be eligible for Medicaid benefits. Ibid.

On May 11, 2026, DMAHS received Hudson County's exceptions opposing the Initial Decision's recommendation to remove the transfer penalty. Hudson County argues that Petitioner failed to satisfy the burden of proof required for an undue hardship

despite good-faith efforts, the assets cannot be recovered. N.J.A.C. 10:71-4.10(q)(1). Undue hardship does not exist if a transfer penalty would merely cause inconvenience to the individual. N.J.A.C. 10:71-4.10(q)(2).

In its exceptions, Hudson County argues that the Petitioner failed to irrefutably demonstrate that the transferred assets are beyond the Petitioner's control and cannot be recovered. Hudson County noted that during the application process it had not received any documentation from the Petitioner to support this finding.

I agree with the ALJ's determination that Petitioner failed to rebut the presumption that transfers were made to establish Medicaid eligibility. The record shows that \$372,133.98 was transferred during the look-back period for less than fair market value. Petitioner did not provide convincing evidence that the transfers were made only for purposes unrelated to Medicaid eligibility, as required by N.J.A.C. 10:71-4.10 (j).

However, I am not prepared to accept the ALJ's conclusion that Petitioner qualified for an undue hardship waiver without further elaboration of the record. As described above, under N.J.A.C. 10:71-4.10(q), a hardship exemption requires both that the individual's health or life would be endangered during the transfer penalty period and that the applicant irrefutably demonstrate that the transferred assets are beyond the applicant's control and can not be recovered. I agree with Hudson County that the Initial Decision does not sufficiently explain how Petitioner satisfied the second prong of this standard. The record contains limited evidence regarding the recoverability of the transferred funds. In particular, it does not describe whether all good-faith efforts, including available legal and equitable remedies, were exhausted in an attempt to recover those assets. The testimony from the Petitioner's daughter is not sufficient here; at a minimum, there needs to be a detailed accounting of the transferred funds, and of what legal or other steps the petitioner took to recover these funds.

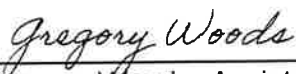
The undue hardship exemption is meant to apply only in limited and extraordinary circumstances, so more factual findings and legal analysis are needed for a proper agency review. Without these findings, the record does not show whether the requirements of N.J.A.C. 10:71-4.10(q) have been met.

Therefore, I REMAND this matter to the OAL for more findings of fact and legal conclusions about the basis for the undue hardship determination, and in particular to elaborate the evidence that supports the finding that the assets in question are unrecoverable. I note that the standard established at N.J.A.C. 10:71-4.10(q)(1)(ii) is intentionally very stringent – it requires the applicant to “irrefutably demonstrate the transferred assets are beyond his or her control” and that the applicant show “exhaustion of remedies available at law or in equity, to recover the assets transferred.” To meet this standard, far more detailed evidence is required.

THEREFORE, it is on this 22nd day of JUNE 2026,

ORDERED:

That the Initial Decision is hereby REMANDED.



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