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State of New Jersey
DEPARTMENT OF HUMAN SERVICES
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Commissioner

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Assistant Commissioner

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

R.W.,	:	
PETITIONER,	:	**ADMINISTRATIVE ACTION**
v.	:	**FINAL AGENCY DECISION**
DIVISION OF MEDICAL ASSISTANCE	:	**OAL DKT. NO. HMA 02612-26**
AND HEALTH SERVICES AND	:	
HUDSON COUNTY DEPARTMENT OF	:	
FAMILY SERVICES,	:	
RESPONDENTS.	:	

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 14, 2026, in accordance with an Order of Extension.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of Medicaid benefits. On December 30, 2025, the Hudson County Department of Family Services (Hudson County) advised Petitioner that a penalty of 144 days was assessed

on Petitioner's receipt of Medicaid benefits resulting from the transfer of a property from an estate for below market value. ID at 2. Petitioner appealed the transfer penalty. The Initial Decision found that Petitioner had failed to rebut the presumption that $58,171.56 in transfers were done for the purposes of qualifying for Medicaid benefits.

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.

An asset is any real or personal property owned by the applicant, or by those persons whose resources are deemed available to him or her, and those individuals can convert the property to cash for support and maintenance, such as a checking or savings account. See N.J.A.C. 10:71-4.1 (b). 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. Examples of actions that would cause income or resources not to be received include waiver of rights to receive an inheritance under N.J.S.A. 38:8-10. See N.J.A.C. 10:71-4.10(b)(3)(ii)

In this matter, the Petitioner's mother, A.W., passed away intestate on February 25, 1987, and was survived by her fourteen children who are her heirs at law. ID at 3. A.W.'s estate included a five-family house located in Bayonne, New Jersey. Ibid. Two of the Petitioner's brothers were named as co-administrators of the estate. Ibid. The co-administrators never liquidated the property or distributed the shares of the estate to the heirs. Id. at 4. One of the siblings, C.P., filed a verified complaint in the Superior Court of New Jersey, Chancery Division, Probate Part, Hudson County, requesting the court to order the sale of the property. Ibid. The co-administrators and C.P. ultimately settled on March 31, 2017, and C.P. received her share of the estate. The property inheritance was later listed as an asset on the Petitioner's February 27, 2025 Medicaid application. Ibid.

During the fair hearing, Petitioner's argued that the property is unavailable to her because the property is in probate. Id. at 6. In the Initial Decision, the Administrative Law Judge (ALJ) found that the fact that a resource is in probate does not mean it is unavailable. The ALJ concluded that Petitioner did not satisfy her burden of rebutting the presumption that the assets were transferred to establish Medicaid eligibility by presenting convincing evidence that the assets were transferred exclusively for some other purpose. ID at 8. Therefore, the ALJ upheld the imposed transfer penalty in the amount of $58,171.65. Ibid. I agree.

As noted above, N.J.A.C. 10:71-4.10(c) states that when "an individual or his or her spouse ... 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 will be assessed. Petitioner has failed to present any documentation to support a finding that the transfer was solely for a reason other than to establish Medicaid eligibility. In this matter, the Petitioner has been entitled to a sizable inheritance since her mother passed away in 1987. The Petitioner's argument that the property is unavailable because it is in probate is not reasonable as it has been in probate for 38 years and the Petitioner has not taken any action to seek distribution of her inheritance. The Petitioner's sister, C.P., was able to petition the court and ultimately settle with the estate to collect her inheritance. The Petitioner could have similarly petitioned the court to seek her inheritance but chose not to act.

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 144 days was appropriate.

THEREFORE, it is on this 11th 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