



*State of New Jersey*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

CHRIS CHRISTIE  
*Governor*

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ELIZABETH CONNOLLY  
*Acting Commissioner*

KIM GUADAGNO  
*Lt. Governor*

MEGHAN DAVEY  
*Director*

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

D.B.

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE  
AND HEALTH SERVICES AND  
ESSEX COUNTY BOARD OF  
SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 08561-16

As the Director of the Division of Medical Assistance and Health Services,  
I have reviewed the record in this case, consisting of the Initial Decision, the  
documents in evidence and the entire contents of the OAL file. Neither Party

filed exceptions. Procedurally, the time period for the Agency Head to render a Final Agency Decision is November 3, 2016, in accordance an Order of Extension. The Initial Decision in this case was received on August 4, 2016.

This matter arises from Petitioner's December 2015 Medicaid application. During review of Petitioner's application, the Essex County Board of Social Services (ECBSS) found several withdrawals and transfers. All but two of the transfers were to Petitioner's disabled son and found to be exempt pursuant to N.J.A.C. 10:71-4.10(d)(2). The remaining two transactions, \$9,000 to Petitioner's daughter-in-law and \$5,000 to Petitioner's granddaughter, were initially determined to result in a transfer penalty to Petitioner. However, the full amount of the transfers were returned to Petitioner. The reduction of a penalty is permitted by 42 U.S.C. § 1396p(c)(2)(C) and clarified in a Medicaid Communication under certain circumstances. Any reduction of the transferred funds is predicated on whether "a satisfactory showing is made to the state (in accordance with regulations promulgated by the Secretary) that (i) the individual intended to dispose of the assets either at fair market value, or for other valuable consideration, (ii) the assets were transferred exclusively for a purpose other than to qualify for medical assistance, or (iii) all assets transferred for less than fair market value have been returned to the individual." 42 U.S.C. §1396p(c)(2)(C) (emphasis added). Therefore, while partial returns are not permitted to modify the penalty period, a return of all the assets may reduce the penalty period. Medicaid Communications (Med-Comms) 10-02 and 10-06.

Here, the full amount of \$14,000 was returned to Petitioner's bank account. However, as this amount has been returned to Petitioner, there is still a question with regard to Petitioner's eligibility. Thus, I FIND that ECBSS should


process Petitioner's December 2015 application to determine if she was eligible for Medicaid benefits. This Final Agency Decision should not be construed as making any findings regarding Petitioner's eligibility.

THEREFORE, it is on this 31<sup>st</sup> day of OCTOBER 2016,

ORDERED:

That the Initial Decision is hereby ADOPTED with regard to the transfer penalty assessed by ECBSS;

That the matter is RETURNED to ECBSS to determine Petitioner's eligibility in accordance with this Final Agency Decision.

A handwritten signature in black ink, appearing to read "Meghan Davey", is written over a horizontal line.

Meghan Davey, Director  
Division of Medical Assistance  
and Health Services