



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Acting Commissioner

MEGHAN DAVEY
Director

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

D.M.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OCEAN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 2601-17

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence, the OAL case file and Petitioner's Exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to file a Final Agency Decision is May 30, 2017, 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. The Initial Decision was received on April 12, 2017.

At issue is the penalty imposed following the sale of Petitioner's marital residence. By Initial Decision, the ALJ found that Ocean County had properly imposed a 206-day period of ineligibility for the transfer, from March 1, 2017 through September 23, 2017. After reviewing the record, I concur with the ALJ's findings in the Initial Decision and hereby ADOPT them in their entirety.

Petitioner was found eligible for Medicaid benefits effective December 1, 2015. During the redetermination of eligibility, Ocean County learned that Petitioner's marital home was sold on July 25, 2016 for \$145,000. The closing statement from the sale showed that title was in both Petitioner and his wife's name. The net proceeds from the sale were \$137,500. R-2 in evidence. Ocean County determined that one-half of the proceeds (\$68,875) were assets due to Petitioner that he did not receive.

Petitioner's daughter claims that she was not told to transfer title to the home out of her stepfather's name. However, the caseworker testified that she did in fact advise Petitioner's spouse at the time of application that the home should be in L.M.'s name. Initial Decision at page 3. Furthermore, Petitioner's spouse signed the Medicaid application which specifically provides that the applicant's assets must be below \$2000. Moreover, no explanation was provided to the County as to the disposition of the proceeds other than the fact that the funds were not deposited into Petitioner's bank account.

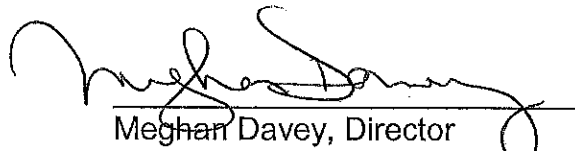
A resource cannot be transferred or disposed of for less than fair market value during or after the start of the five-year look-back period before the individual becomes institutionalized or applies for Medicaid as an institutionalized individual. 42 U.S.C.A. 1396p(c)(1); N.J.A.C. 10:71-4.10(a). "A transfer 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. Any transfer for less than fair market value is presumed to have been made for the purpose of establishing Medicaid eligibility. Id. at, 353. N.J.A.C. 10:71-4.10(i). As noted in the Initial Decision, it is the applicant's burden to rebut this presumption 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). In this case, no evidence was presented as to the disposition of Petitioner's share of the proceeds nor was any evidence offered to establish undue hardship in accordance with N.J.A.C. 10:71-4.10q(1)(i).

THEREFORE, it is on this 9th day of May 2017

ORDERED:

That the Initial Decision affirming the transfer penalty is hereby
ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services