



**State of New Jersey
 Department of Human Services
 Division of Medical Assistance and Health Services
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 Governor

Carole Johnson
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 Director

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

M.R.,

PETITIONER,

v.

MORRIS COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

**OAL DKT. NO. HMA 16466-18
 HMA 16633-18**

F.R.,

PETITIONER,

v.

MORRIS COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

**OAL DKT. NO. HMA 16633-18
 HMA 16466-18**

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, and the documents in evidence. No exceptions to the Initial Decision were filed. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is April 1, 2019, 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 receipt. The Initial Decision in this matter was received on February 14, 2019.

At issue is a 34 day penalty imposed due to Petitioners' transfers totaling \$12,000. In determining Medicaid eligibility for someone seeking institutionalized benefits, the counties must review five years of financial history. Under the regulations, "[i]f an individual . . . (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.¹ N.J.A.C. 10:71-4.10 (c). It is Petitioner's burden to overcome the presumption that the transfer was done – even in part – to establish Medicaid eligibility. The presumption that the transfer of assets was done to qualify for Medicaid benefits may be rebutted "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).

Petitioners applied for Medicaid benefits on February 14, 2018. During the five years prior, Petitioners made three transfers to their son, D.R.: \$1,000 on August 13, 2014, \$10,000 on December 7, 2015, and \$1,000 on April 30, 2017. Petitioners claim

¹ Congress understands that applicants and their families contemplate positioning assets to achieve Medicaid benefits long before ever applying. To that end, Congress extended the look back period from three years to five years. Deficit Reduction Act of 2005, P.L. 109-171, § 6011 (Feb. 8, 2006).


that the transfers were payments to D.R. for rent owed by Petitioners pursuant to an informal rental agreement of \$700 per month. The ALJ astutely points out that the understanding was never reduced to writing, that the payments were irregular, that sometimes the family would disagree as to the necessity of the payments, and that D.R. refused to provide testimony or documentation to substantiate a rental agreement.

Notably, none of the three checks in question is written for the amount of \$700, nor did any check indicate that it was written with the intent of paying rent or back rent. Furthermore, to the extent that the checks covered rent and some other expense or repair, no documentation was provided to support the claims of those repairs and costs. Additionally, the only letter provided by D.R. claims that Petitioners paid him rent for thirty plus years. Presumably then, there would have been checks to document a pattern of paying D.R. rent beginning in 1987. Furthermore, if the \$10,000 check was to satisfy rental arrears, Petitioners' should be able to provide proof of rental payment for the years spanning December 2015 through September 2017. However, claims that the transfers were payment for rent owed to D.R. are unsupported by the record. The absence of payments to Petitioners' grandchildren and great-grandchildren during the five year look back period is not sufficient evidence that the transfers were done with some purpose other than to qualify for Medicaid.

THEREFORE, it is on this 27th day of MARCH 2019,

ORDERED:

That the Initial Decision is hereby REVERSED and the transfer penalty imposed by Morris County is upheld.


Meghan Davey, Director
Division of Medical Assistance
and Health Services