



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

CAROLE JOHNSON
Commissioner

CAROL GRANT
Acting Director

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

R.S.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

PASSAIC COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 18160-2018

As Acting Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is July 15, 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 was received on May 29, 2019.

The matter arises regarding the imposition of a transfer penalty due to Petitioner's recorded transfer of her home to her son in September 2012. Petitioner applied for benefits in October 2016. She has been residing in a nursing home since June 2016 and had designated Genesha Frost of Future Care Consultants as her representative. ID at 3. Prior to entering the nursing home she has resided in an assisted living. R-4.

In January 2011, while she was in an assisted living facility and in contemplation of applying for Medicaid, Petitioner signed a document purporting to transfer her home to her son. R-2. The deed was never filed. However, her son promptly rented out the property. He deposited the rent into her Wells Fargo account and paid the taxes and insurance from that account. R-4.

In 2012, the son decided to sell the home. A new deed was drafted without mention of the prior unrecorded deed and was filed in September. P-5. The home sold later that month. ID at 4.

When Petitioner filed for Medicaid in October 2016, she was subject to a five year lookback period to discern if she transferred assets in order to qualify for Medicaid. That lookback period began October 2011. As such the recorded deed occurred during the look back period while the unrecorded deed did not. Since Medicaid was the basis of the transfer, in order to avoid a transfer penalty for transferring her home, Petitioner has to prevail on the January 2011 deed being controlling to transfer the property outside the lookback period.

Having reviewed this record and due to the facts and circumstances surrounding this case, I concur with the Initial Decision's finding that Petitioner's transfer of the property occurred beyond the 5 year lookback. The facts in this case show that Petitioner's son took control of the property as of the date of the January 2011 deed. Petitioner was not living in the home which permitted it to be rented out. The payments through Petitioner's

bank account for the carrying costs on the home were offset by the deposit of the rental checks into her account. Thus, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this 12th day of JULY 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Carol Grant, Acting Director
Division of Medical Assistance
and Health Services