

State of New Jersey

DEPARTMENT OF HUMAN SERVICES DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES PO Box 712 Trenton, NJ 08625-0712

CAROLE JOHNSON Commissioner

JENNIFER LANGER JACOBS Director

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

S.B.,

PETITIONER,	ADMINISTRATIVE ACTION
V.	FINAL AGENCY DECISION
DIVISION OF MEDICAL ASSISTANCE	OAL DKT. No. HMA 15153-2018
AND HEALTH SERVICES AND	ON REMAND FROM
BURLINGTON COUNTY BOARD OF	OAL DKT. NO. HMA 4511-2018
SOCIAL SERVICES,	:
RESPONDENTS.	:

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As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the OAL case file, the documents in evidence and the Initial Decision. Neither party filed exceptions. Procedurally, the time period for the Agency Head to file a Final Decision is August 22, 2019 in accordance with an Order of Extension.

The matter concerns the transfer of \$46,095.28 to Petitioner's daughter. This resulted in a penalty from December 1, 2017 through March 19, 2018 during which

PHILIP D. MURPHY Governor

SHEILA Y. OLIVER Lt. Governor Petitioner was not entitled to have Medicaid pay for her long term care services. After a prior hearing and Initial Decision, the matter was remanded to answer several inconsistencies in the record produced at the prior hearing. It is Petitioner's burden to demonstrate that she received fair market value for the transferred assets. <u>N.J.A.C.</u> 10:71-4.10(j).

On remand, Petitioner was given the opportunity to produce evidence about the services her daughter provided including a description of the services and the time expended performing them. Petitioner was also to provide evidence about the fair market value of the services. Additionally, Petitioner was to address the inconsistency in the record concerning her daughter's frequent travel into New York where it appears she remained for days, including days where she was being paid to care for Petitioner.

The Initial Decision found that Petitioner "offered no new evidence documenting the daily services [the daughter] provided to the petitioner, the amount of time she actually expended to provide each service, or the fair market value of those services." ID at 14. I concur with that finding. The record and the testimony presented at the hearing did not offer any detail about the services Petitioner paid her daughter to perform. Rather, the Initial Decision described the daughter's testimony about the service as "broad strokes" and the description that Petitioner's medical condition permitted her to walk "quite freely" as "questionable." ID at 14 and 15.

As a result of the testimony and documentation provided on remand, the Initial Decision found that Petitioner had not demonstrated that the transfer of funds under the caregiver agreement was for fair market value, and therefore the transfer penalty should stand. I have reviewed the record and agree with the findings below. Thus, I hereby ADOPT the Initial Decision in its entirety.

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THEREFORE, it is on this day of AUGUST 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Jennifer Langer Jacobs, Director Division of Medical Assistance and Health Services