



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Assistant Commissioner

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

L.C. ¹ ,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 03545-2021
AND HEALTH SERVICES AND	:	
SUSSEX COUNTY BOARD	:	
OF SOCIAL SERVICES,	:	
RESPONDENTS.	:	

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is November 18, 2021 in accordance with an Order of Extension.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of Medicaid benefits. By letter dated February 3, 2021, the Sussex County Board of Social

¹ The Petitioner in this matter was incorrectly listed as L.C., who is Petitioner's spouse. The Petitioner in this matter is actually J.M.C.

Services (SCBSS) granted Petitioner's April 8, 2020 application with eligibility as of September 1, 2020. However, a penalty of 592 days was assessed resulting from transfers totaling \$211,956.06 during the look-back period. Petitioner's wife and executor of his estate, L.C., appealed the transfer penalty on Petitioner's behalf.

The Initial Decision reverses the imposition of a transfer penalty at issue, as the Initial Decision found that Petitioner rebutted the presumption that the funds contained in the joint bank account that Petitioner held with his son, J.B.C., solely belonged to J.B.C. and the funds therein were not transferred for the sole purpose of qualifying Petitioner for Medicaid. See N.J.A.C. 10:71-4.10(j). Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

In determining Medicaid eligibility for someone seeking institutionalized benefits, 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. N.J.A.C. 10:71-4.10(c). "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.

The applicant "may rebut the presumption that assets were transferred to establish Medicaid eligibility 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). The burden of proof in rebutting this presumption is on the applicant. Ibid. The regulations also provide

that “if the applicant had some other purpose for transferring the asset, but establishing Medicaid eligibility appears to have been a factor in his or her decision to transfer, the presumption shall not be considered successfully rebutted.” N.J.A.C. 10:71-4.10(i)2.

In the present matter, Petitioner submitted a Medicaid application on April 8, 2020, which sought institutionalized care. ID at 2. SCBSS determined that Petitioner’s income exceeded the Medicaid eligibility limit and advised Petitioner that he needed to establish and fund a Qualified Income Trust (QIT). Ibid. On August 13, 2020, the Office of Community Choice Options found Petitioner to be medically eligible for services, and Petitioner’s QIT was properly funded in September 2020. Ibid. Petitioner passed away in November 2020. Ibid.

On February 3, 2021, SCBSS approved Petitioner’s Medicaid application, effective September 1, 2020. Ibid. However, after reviewing Petitioner’s financial information, SCBSS determined that all of the withdrawals/transactions made between 2015 and 2020 from a joint bank account that Petitioner owned with J.B.C., totaling \$211,956.06, was transferred at less than fair market value. As a result, SCBSS determined that Petitioner transferred these resources in order to qualify for Medicaid and advised Petitioner that a penalty of 592 days resulted from the transfers. Ibid. As a result of Petitioner passing before Medicaid benefits would commence on April 17, 2022, Petitioner became ineligible for benefits.

At the hearing in this matter, it was determined that Petitioner suffered a stroke in January 2020 and before the stroke, he lived independently, suffering from only minor ailments. Id. at 3. Petitioner entered into a nursing facility in February 2020. Ibid. The bank account at issue was opened in 2007, while J.B.C. was in college and resided with his parents. Id. at 4. While J.B.C. was not a minor when the account was opened, the joint account was a matter of convenience for Petitioner to provide financial help to J.B.C., if necessary. Ibid. During the time period at issue, Petitioner demonstrated that the majority of funds deposited into the joint bank account were from J.B.C.’s employer, State and Federal

tax refunds for J.B.C., unemployment benefits during a 2020 furlough as a result of the COVID-19 pandemic for J.B.C., and Internal Revenue Service pandemic payments to J.B.C. Petitioner and L.C. only made de minimis deposits, ranging from \$18 to \$914.32, into the account from their joint bank account, totaling \$2,211.32 over the five year period. R-5. The ALJ found that these deposits were repayments for personal expenses that J.B.C. paid on Petitioner's behalf. ID at 5. The withdrawals made from the account were shown to be daily living expenses for J.B.C., including payments for his student loans, personal credit cards, gym memberships, online streaming services, utilities, and other personal expenses. Id. at 5-6 and R-5. There is no evidence in the record to show that Petitioner utilized this account as his own, and the ALJ found that Petitioner did not make any withdrawals from the joint account. ID at 6.

Based upon my review of the record, the unique circumstances in this case, and for the reasons set forth herein, I hereby ADOPT the ALJ's recommended decision finding that Petitioner has demonstrated that the transfers of resources at issue in this matter, which totaled \$211,956.06, were not made in order to establish Medicaid eligibility, but belonged solely to J.B.C. and were utilized by J.B.C. for his typical living expenses. Accordingly, the penalty imposed was inappropriate, and Petitioner is eligible for Medicaid benefits as of September 1, 2020 until his passing.

THEREFORE, it is on this ^{12th} day of November 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance and Health Services