



At issue is an 81-day penalty imposed due to Petitioner's transfer of \$29,282.62 during the look-back period. Medicaid law contains a presumption that any transfer for less than fair market value during the look-back period was made for the purpose of establishing Medicaid eligibility. See E.S. v. Div. of Med. Assist. & Health Servs., 412 N.J. Super. 340 (App. Div. 2010); N.J.A.C. 10:71-4.10(i). 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). 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).

On October 26, 2020, Petitioner, through her daughter C.A., filed a third Medicaid application with the Morris County Office of Temporary Assistance (Morris County).<sup>1</sup> On May 19, 2021, Morris County found Petitioner subject to a \$29,282.62 transfer penalty. At the hearing, Petitioner stipulated that she could not verify most of the transfers comprising the penalty assessment. The only transfer at issue regards the cash surrender value of an NGL policy totaling \$1,005.06.<sup>2</sup>

The record does not help to clarify the nature of the transfer at issue. On January 15, 2021 NGL issued a letter stating that the NGL policy was transferred to Petitioner's daughter, C.A, although Petitioner remained the insured. On that same date, NGL issued another letter stating that C.A. had revocably assigned the policy to a Florida funeral home. On August 25, 2021, NGL issued a letter stating that the policy "cannot be surrendered for the cash value and was irrevocably assigned (to the same funeral home) at the time of issue on January 15, 2015." This obviously conflicts with NGL's previous letters. To further complicate matters,

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<sup>1</sup> Petitioner's first two applications were denied for failure to provide verifications needed to determine eligibility.

<sup>2</sup> The Initial Decision incorrectly states that the transfer was for a \$2,000 dollar policy, which is the face value of the policy rather than the above referenced cash surrender value of the policy.

on August 26, 2021, NGL issued another letter confirming that the policy can be transferred to another funeral provider.

The issue here is not whether the funeral funds can be transferred to a New Jersey funeral service provider, but rather, whether the funds were irrevocably designated for reasonable funeral expenses and, if so, when? The contradictory documentation from NGL presents more questions than answers. It is Petitioner's burden to show that this transfer, for her benefit, was for fair market value. Therefore, I am REMANDING this matter to the OAL to give Petitioner the opportunity to provide documentation from NGL that clarifies the contradicting documentation in the record, identifies when and to whom the policy was transferred, and definitively states when it became an irrevocable preneed funeral insurance policy and the terms of that policy.

THEREFORE, it is on this 17th day of OCTOBER 2021,

ORDERED:

That the Initial Decision is ADOPTED.



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