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**State of New Jersey**  
**DEPARTMENT OF HUMAN SERVICES**  
Division of Medical Assistance and Health Services  
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Commissioner

GREGORY WOODS  
Assistant Commissioner

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

B.H.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :  
AND HEALTH SERVICES AND :  
CAPE MAY COUNTY BOARD OF :  
SOCIAL SERVICES, :  
RESPONDENTS.

**ADMINISTRATIVE ACTION**

**FINAL AGENCY DECISION**

**OAL DKT. NO. HMA 17454-24**

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. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 25, 2025, 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 the agency's receipt.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of

Medicaid benefits. By letter dated September 9, 2024, the Cape May County Board of Social Services (Cape May County) advised Petitioner that a penalty of 533 days was assessed on Petitioner's receipt of Medicaid benefits resulting from the transfer of assets totaling \$235,000 for less than fair market value, during the five-year look-back period. (R-1). Cape May County also determined that the penalty period would run from May 1, 2024, through October 16, 2025. Ibid. Petitioner appealed the transfer penalty. Petitioner filed a motion for summary decision and the parties stipulated that there were no material issues of fact in dispute. ID at 2. The Initial Decision found that Petitioner had failed to rebut the presumption that \$235,000 in transfers were done for the purposes of qualifying for Medicaid benefits.

In determining Medicaid eligibility for someone seeking institutionalized benefits, counties must review five years of financial history. Under the regulations, "[i]f an individual, or his or her spouse . . . (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 this matter, Petitioner's spouse transferred real property to his children for a sum of \$1.00 by deed dated September 12, 2023. ID at 3. Petitioner's husband died on February 9, 2024. Ibid. Petitioner filed an application for Medicaid less than a year after the transfer, on June 10, 2024. Ibid. Petitioner argues that she was not on the deed and did not own the real property and that her husband owned the property before they were married. Ibid.

In the Initial Decision, the Administrative Law Judge (ALJ) found that Petitioner's spouse deeded the property to his children for \$1.00 and that the fair market value of the property was \$235,000. ID at 4. The ALJ also found that Petitioner did not submit any proofs to rebut the presumption. Ibid. The ALJ concluded that the imposition of a 533-day transfer penalty was appropriate. Ibid.

Petitioner filed exceptions to the Initial Decision reiterating the argument that Petitioner never owned or had any cognizable interest in the property that was transferred and therefore did not have any control over the property.

As noted above, N.J.A.C. 10:71-4.10(c) states that when "an individual or his or her spouse ... 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 will be assessed. Petitioner has failed to present any documentation to support

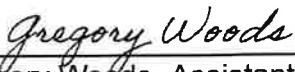
a finding that the transfers were solely for a reason other than to establish Medicaid eligibility.

Thus, based on the record before me and for the reasons enumerated above, I hereby ADOPT the Initial Decision and FIND that a transfer penalty of 533 days was appropriate.

THEREFORE, it is on this 21st day of AUGUST, 2025

ORDERED:

That the Initial Decision is hereby ADOPTED.

  
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Gregory Woods, Assistant Commissioner  
Division of Medical Assistance and Health Services