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

D.S.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE  
AND HEALTH SERVICES AND  
CAMDEN COUNTY BOARD OF  
SOCIAL SERVICES,

RESPONDENTS.

**ADMINISTRATIVE ACTION**

**ORDER OF RETURN**

**OAL DKT. NO. HMA 07600-24**

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence, and the Initial Decision in this matter. Neither party filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is November 17, 2025, in accordance with an Extension Order.

This matter arises from the Camden County Board of Social Services' (Camden County) imposition of a \$27,623 transfer penalty for Petitioner's receipt of Medicaid benefits. The issue presented here is whether Camden County correctly imposed the \$27,623 transfer penalty as outlined in N.J.A.C. 10:71-4.10.

Here, on February 13, 2024, Petitioner applied for Medicaid Managed Long Term Services and Supports (MLTSS). (R-1, pages 1-14.) By letter dated March 26, 2024, Camden County notified Petitioner that it had imposed a \$27,623 transfer penalty due to transferring the resources for less than the fair market value. (R-5 at 27.) By letter dated April 17, 2024, Camden County approved Petitioner's MLTSS benefits effective February 1, 2024. (R-8 at 33.)

Petitioner executed a residential lease requiring monthly payments of \$1,850 on October 1, 2016. (R-4, pages 25-26.) Petitioner was living with their spouse in a rented residence from their son-in-law, S.M., from October 1, 2016, until they were admitted into rehabilitation at Complete Care Voorhees in October 2023. (P-5, S.M. and T.M.'s Testimony). With the spouse's passing on April 9, 2018, Petitioner was not able to keep making the agreed rent payments. ID at 4. In October 2023, Petitioner experienced increased cognitive difficulties, and due to this condition, they left the rented residence and were admitted to long-term residential-care facility in January 2024. Ibid.

On January 11, 2024, Petitioner's daughter, T.M., acting as Petitioner's attorney-in-fact, utilizing Kelly Blue Book, sold Petitioner's 2016 Nissan Rogue to S.M. and herself for \$12,000. (P-6 at 15-17.) T.M. deposited the \$12,000 into Petitioner's Citizens Bank checking account on January 16, 2024. Ibid. On January 23, 2024, T.M. liquidated Petitioner's MetLife Insurance, depositing the full sum of \$14,138.04 into Petitioner's Citizens Bank checking account. (P-7 at 18.) On January 22, 2024, T.M. wrote a check

to S.M. for \$14,500 for back rent payments. (R-6 at 30-31.) On January 31, 2024, T.M. wrote a check to S.M. for \$13,123 also for back rent. Ibid.

Upon reviewing Petitioner's application, Camden County imposed a transfer penalty of \$27,623 on Petitioner's Medicaid application, claiming that two transactions on January 22, 2024, and January 31, 2024, were made for less than fair market value resulting in a Medicaid penalty of 71 days.(P -3.)

Petitioner appealed Camden County's determination to imposed a \$27,623 transfer penalty. ID at 2. After several prehearing conferences, a hearing was scheduled for November 6, 2024. Ibid. On November 6, 2024, the Administrative Law Judge (ALJ) conducted the hearing via Zoom. Ibid. During the hearing, the parties were requested additional documents and closing submissions. Ibid. The record was initially closed on January 6, 2025. Ibid. The ALJ reopened the record for purposes of oral argument and the opportunity for parties to provide additional submissions. ID at 3. Upon receipt of the final submissions, the record was closed again on May 26, 2025. Ibid.

The ALJ reversed Camden County's transfer penalty determination. The ALJ stated that Ms. Harris, who represented Camden County at the hearing, was not actively involved in the processing of Petitioner's application and primarily served as a conduit for admitting the respondent's documents. ID at 6. The ALJ found Ms. Harris' testimony credible. Ibid. The ALJ further found that Petitioner's and S.M.'s residential lease was genuine, that the rent payments were \$1,850 per month, and that Petitioner failed to make payments as required under the lease agreement from December 2019 through October 2023. Ibid.

The ALJ concluded that Petitioner has established, by clear evidence, that the \$27,623 paid to S.M. was in proper payment of Petitioner's prior obligation and should not trigger a transfer penalty. ID at 10. I concur.

In this matter, the only dispute is whether Camden County correctly determined that Petitioner transferred assets for \$27,623 less than fair market value during the look-back period.

When determining Medicaid eligibility for individuals seeking institutional level of care benefits, the counties must review a five-year of financial history. Under the Deficit Reduction Act (DRA) of 2005, if an applicant transfers assets for less than the fair market value during the look-back period, then those assets are included as eligible resources available to the applicant, and a period of ineligibility is imposed, which is known as the transfer penalty. 42 U.S.C. §1396p(c)(1); N.J.A.C. 10:71-4.10(a).

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). 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.

This rule allows Camden County to review financial transactions made within the five years prior to Petitioner's application to determine if assets were transferred or gifted in a way that violates eligibility requirements. Upon reviewing Petitioner's financial

transactions, Camden County determined that Petitioner transferred assets for \$27,623 at less than fair market value and imposed a penalty transfer in the same amount.

Petitioner appealed the imposition by Camden County of transfer penalties on two transactions: one on January 22, 2024, for \$14,500 and the second on January 31, 2024, for \$13,123. ID at 2. Petitioner asserts that both checks were for back rent from Petitioner's lease agreement, which was executed on October 16, 2016. Per the lease agreement, Petitioner was to pay S.M. \$1,850 per month. (P-4.) However, after losing their spouse and part of their income, Petitioner was unable to pay their monthly rent as per the lease agreement starting December 1, 2019, resulting in an arrearage of outstanding back rent.(P-11.) Petitioner did not terminate the lease agreement while residing there until October 2023, when they vacated S.M.'s home. Ibid.

Per T.M., Petitioner, together with spouse, could afford the monthly rent payment of \$1,850. ID at 7. However, after their spouse passed away, Petitioner was unable to pay \$1,850 with his only income. Ibid. T.M. explained that to maintain Petitioner's dignity, Petitioner and S.M. agreed that if Petitioner came into money, they would pay the sum owing. Ibid.

In his affidavit, S.M. states that Petitioner signed a lease agreement on October 1, 2016, for S.M.'s rental property for \$1,850 per month. The final check S.M. was paid by Petitioner was in December 2018. (P-6 at 11.) S.M. further stated that he never waived Petitioner's outstanding rent or forgave their debt, which was due and owing to him under the terms of their lease. Ibid.

Petitioner agreed to pay \$1,850 per month when they had two incomes with their spouse. When a spouse passed away, Petitioner lost part of their household income. Petitioner's MLTSS application indicates that their income includes Social Security

payments of \$2,322 and an annuity payment of \$123.37. Petitioner's assets include MetLife Insurance and the 2016 Nissan Rogue car. Petitioner owed S.M. \$22,200 annually for rent from October 1, 2016, to October 2023; however, they stopped making payment on December 1, 2019, due to the passing of their spouse and a loss of income. Petitioner owed \$86,950 to S.M. for back-rent payment from December 2019 to October 2023. Two checks totaling \$27,623 covered part of Petitioner's outstanding debts.

Thus, due to the circumstances and facts of this case, I FIND that Petitioner established by convincing evidence that two checks, totaling \$27,623, were not transferred for less than fair market value.

Accordingly, I ADOPT the Initial Decision's finding that the \$27,623 paid to S.M. was in proper payment of Petitioner's prior obligation and should not trigger a transfer penalty. I RETURN the matter to Camden County to re-evaluate Petitioner's application and issue a new determination letter.

THEREFORE, it is on this 14th day of NOVEMBER 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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