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Lt. Governor

GREGORY WOODS
Assistant Commissioner

STATE OF NEW JERSEY

**DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

G.J.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES AND :

ATLANTIC COUNTY DEPARTMENT OF :

FAMILY AND COMMUNITY :

DEVELOPMENT, :

RESPONDENTS. :

ADMINISTRATIVE ACTION

ORDER OF REMAND

OAL DKT. NO. HMA 04735-2025

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. Exceptions were filed by the Petitioner in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 8, 2025, in accordance with an Order of Extension.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of Medicaid benefits. ID at 1. 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. According to N.J.A.C. 10:71-4.1(e)(6), there shall not be a transfer penalty when, “a satisfactory showing is made to the State that: (ii) The assets were transferred exclusively for a purpose other than to qualify for medical assistance.”

At the Fair Hearing, testimony was delivered, and evidence was presented. However, in the Initial Decision the Administrative Law Judge (ALJ) failed to provide any findings of fact, conclusions of law, or discussion of documentary evidence or testimony that would support a determination concluding that the Petitioner is subject to a transfer penalty under N.J.A.C. 10:71-4.10. In the Initial Decision, the ALJ does not summarize

any of the testimony, make any finding of credibility or explain the exhibits in any detail. The Initial Decision does not state when the Petitioner applied for Medicaid, not does it state when the transfer penalty was issued. The Initial Decision merely states that "On September 25, 2024, petitioner transferred his share of the sale of his residential property in the amount of \$65, 400.00 into his TD Bank Qualified Income Trust (QIT) account." ID at 2. Based on this one statement of fact the ALJ concluded that the Petitioner is subject to a transfer penalty period of 148 days. Id. at 4. The decision includes no other information or analysis of the transfer at issue. Nor was there any discussion of the relevant case law that was brought up at the Fair Hearing. In their Exceptions, the Petitioner states that the question presented at the Fair Hearing was how "property other than income," erroneously placed into a QIT should be treated for Medicaid eligibility purposes. Petitioner's Exceptions at 1. The Initial Decision does not discuss this question at all. In their summation brief, the Petitioner discussed caselaw that is relevant to the question of how assets that are incorrectly placed in a QIT should be treated. In M.H. v. Monmouth, HMA 3605-2019 (Final Agency Decision; August 7, 2019) DMAHS found that assets that were incorrectly funded into a QIT, had to be "spent down" below the \$2,000 resource limit under N.J.A.C. 10:71-4.4(b)3. In that matter a penalty was not imposed. The Petitioner also references D.M. v. Essex County, HMA 02161-16 (Initial Decision, July 8, 2016), that found assets, rather than income, that were incorrectly funded into a QIT, should be considered a resource and subject to spend-down. The Initial Decision does not discuss these matters, and how they apply to the case at hand. In fact, there no discussion of any case law at all in the Initial Decision.

Accordingly, based on the record before me and for the reasons set forth above, I hereby REVERSE the Initial Decision and REMAND the matter to OAL for a recommended decision that sets forth a reason for the decision, with findings of fact and

conclusions of law supported by the testimony and the relevant evidence submitted. In doing so, the ALJ should analyze the relevant case law presented and discuss whether and how it applies to the facts at hand. The recommended decision should specifically address the question of whether assets were disposed of for less than fair market value in order to qualify for Medicaid, if property other than income was erroneously placed into a QIT, and if so, whether that property subject to a transfer penalty.

THEREFORE, it is on this 8th day of December 2025,

ORDERED:

That the Initial Decision is hereby REVERSED and the case REMANDED as set forth above.



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