

This matter concerns the Hudson County Department of Family Services' (Hudson County) imposition of a \$212,417.70 transfer penalty in connection with Petitioner's Medicaid eligibility. The issue is whether Hudson County correctly imposed the penalty under applicable Medicaid regulations. The funds at issue consisted entirely of Petitioner's assets, specifically, the proceeds from the sale of their home and Social Security benefits. (P-9-10.)

On July 11, 2024, Petitioner's Designated Authorized Representative (DAR) submitted a Medicaid application on Petitioner's behalf. (P-1.) By notice dated February 4, 2025, Hudson County approved Medicaid eligibility, but imposed a 482-day transfer penalty for a transfer of \$212,417.70 for less than the fair market value. (P-2.) On February 5, 2025, Hudson County revised the penalty to 471 days. (P-3.) The transfer penalty consists of \$103,551.10 from Petitioner's Chase account ending in 8668, a joint account with W.S., and \$108,866.60 from Chase account ending in 9370, also a joint account with W.S. (P-6, P-7.)

On November 5, 2019, Petitioner sold their home as the sole owner. (P-9.) On November 13, 2019, Petitioner deposited the sale proceeds into their account, increasing the balance from a negative amount to \$202,097.53. (P-10.) Both W.S., Petitioner's only known relative, and Petitioner had access to Petitioner's accounts. Thereafter, a total of \$117,588.49 was transferred to a brokerage account. (P-11.)

On January 31, 2024, W.S. executed the Power of Attorney (POA) naming himself as agent. (P-4.) When facility staff attempted to update Petitioner's Medicaid application, they discovered an unusually low account balance. Ibid. On July 8, 2024, after concerns arose regarding suspicious bank activity, the nursing facility where Petitioner resides filed an official report. (P-5.) A police investigation was initiated, supported by substantial documentary evidence alleging that W.S. used Petitioner's funds for his own benefit

without their consent. Ibid. According to the police report, the facility's Admission Director, Miguelina Feliciano, advised that Petitioner has dementia, is unable to converse, and cannot understand questions. Ibid. Petitioner has resided at the nursing facility since September 2, 2023. Ibid.

On February 7, 2025, Hudson County notified Petitioner that a hardship waiver was denied because Petitioner had received care during the entire penalty period. (R-6.) The penalty period ran from September 1, 2024, to December 26, 2025. (P-2.)

On July 16, 2025, the nursing facility filed a civil Complaint against W.S. alleging conversion of Petitioner's funds and breach of fiduciary duty. (P-8.)

On July 28, 2025, the police confirmed that the investigation remains active. C.M. Certification 8-9. The DAR later learned that W.S. was homeless and had been recently admitted to a psychiatric hospital: however, hospital staff declined to facilitate contact. C.M. Certification 11.

Petitioner appealed Hudson County's determination. The Administrative Law Judge (ALJ) upheld Hudson County's determination, finding that Petitioner improperly transferred \$212,417.70 in assets within the lookback period under N.J.A.C. 10:71-4.10(a) and that Petitioner failed to rebut the presumption that the transfer was made to qualify for Medicaid under N.J.A.C. 10:71-4.10(j) and (k). The ALJ concluded that Petitioner is subject to a penalty of 39 months and 3 days of Medicaid ineligibility under N.J.A.C. 10:71-4.10, and that the effective date is September 1, 2024 (1190 days); however, according to Hudson County's notice dated February 5, 2025, the penalty period was 15 months (471 days.) (P-3.)

Federal law and state regulations require a five-year look-back period. 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.

A transfer penalty does not apply if the applicant proves that the assets were transferred exclusively for a purpose other than to qualify for medical assistance. N.J.A.C. 10:71-4.10(e)(6)(ii).

This case involves allegations of financial exploitation of an elderly individual with dementia by their only known relative. Such cases present unique challenges, including compromised competency, misuse of POA authority, and delayed detection when the victim cannot monitor financial activity. New Jersey and Federal regulations provide that in order to be considered in the eligibility determination a resource must be available to the applicant, and a resource is considered available if the applicant has the “right, authority, or power to liquidate the resource. N.J.A.C. 10:71-4.1; 20 C.F.R. §416.1201. However, in I.L. v. DMAHS, 389 N.J. Super. 354 (App. Div. 2006), the court held that resources theoretically accessible through a guardian were nonetheless inaccessible to the applicant due to the dementia and the absence of a guardian.

Here, Hudson County asserts that the record does not establish whether W.S. used Petitioner's funds with or without Petitioner's knowledge or consent and while the

financial records demonstrate that funds were transferred and spent, Petitioner does not conclusively prove that the transfers were unauthorized. As such, Petitioner cannot affirmatively prove that the transfers were unauthorized, therefore the transfers are presumed valid under Medicaid transfer rules.

The nursing facility asserts that W.S. misappropriated substantial funds, including over \$50,000 spent on adult websites, \$20,000 paid to an attorney for his own personal legal matters, and more than \$100,000 withdrawn in cash. (P-5, P-7, P-10.) The nursing facility argues that Petitioner who lacks capacity, would not authorize such expenditures, which provided no benefit to Petitioner and are inconsistent with any reasonable authorization.

Petitioner is an 83-year-old individual with dementia, is unable to provide any information regarding the allegedly stolen assets and cannot participate in the appeal process. Petitioner was therefore unable to directly rebut the transfer presumptions due to diminished capacity and lack of representation. Petitioner's only family member and the POA, is the alleged perpetrator, and is currently unreachable. The record shows that the nursing facility reported the suspected exploitation, cooperated fully with law enforcement, and pursued recovery by filing a civil complaint.

The Initial Decision fails to adequately address Petitioner's diminished capacity at the time of the alleged transfers. The record contains unrefuted evidence that Petitioner suffers from dementia and lacks the ability to understand or manage financial affairs. While this fact in itself would not necessitate further inquiry, when combined with specific, detailed, and facially plausible (albeit unproven) allegations of theft or exploitation by the Petitioner's POA, it raises important unanswered questions about the Petitioner's control of the assets in question. Specifically, the Initial Decision does not make specific findings

regarding whether Petitioner possessed the "right, authority, or power" to control the transferred assets, as required by N.J.A.C. 10:71-4.1 and 20 C.F.R. § 416.1201.

The Initial Decision does not address whether the transfers at issue were the result of unauthorized acts by Petitioner's agent under a Power of Attorney.

The Initial Decision makes an adverse credibility determination regarding the DAR's testimony without explanation or supporting analysis.

Finally, the Initial Decision finds a transfer penalty for 39 months and 3 days without reconciling that calculation with Hudson County's own determination imposing a 15-month penalty.

For these reasons, this matter is REMANDED for further proceedings. On remand, the ALJ should develop a full factual record and issue detailed findings and conclusions addressing: Petitioner's capacity and resource availability at the time of the transfers; whether the transfers were authorized or resulted from misuse of W.S.; the credibility determination of the DAR with articulated reasons; and the correct calculation of the transfer penalty period.

THEREFORE, it is on this 23rd day of JANUARY 2026,

ORDERED:

That the Initial Decision is hereby REMANDED.



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



PHILIP D. MURPHY
Governor

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
Division of Medical Assistance and Health Services
P.O. Box 712
Trenton, NJ 08625-0712

SARAH ADELMAN
Commissioner

TAHESHA L. WAY
Lt. Governor

GREGORY WOODS
Assistant Commissioner

M.S.

ORDER OF EXTENSION

Petitioner,

OAL DKT. NO. HMA 04478-25

v.

HUDSON COUNTY DEPARTMENT
OF FAMILY SERVICES,

Respondent.

The Initial Decision was received by this agency on **October 7, 2025**; therefore, the 45-day statutory period to issue a Final Decision was set to expire on **November 21, 2025**. On **October 22, 2025**, DMAHS Assistant Commissioner Gregory Woods requested a 45-day extension of time for issuing the Final Decision as he needed additional time to review the Initial Decision, the OAL case file, the law and facts surrounding the matter and the documents in this case. An Order of Extension was granted, extending the time limit for issuing the final decision until **January 5, 2026**.

DMAHS Assistant Commissioner Gregory Woods requests a 21-day extension of time for issuing the Final Decision as he needs additional time to review the Initial Decision, the OAL case file, the law and facts surrounding the matter and the documents in this case. Consent has been given by Simon P. Werberger, Esq., counsel for Petitioner and Alberico G. DePierro, Esq., counsel for Respondent.

Good cause having been shown, pursuant to *N.J.S.A. 52:14B-10(c)* and *N.J.A.C. 1:1-18.8*, **IT IS ORDERED** that the time limit for issuing the final decision is extended until **January 26, 2026**.

Gregory Woods

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

DATE: January 5, 2026

Date agency e-mailed proposed order to OAL: January 5, 2026



Barry E. Moscowitz, Acting Director and
Chief Administrative Law Judge

DATE: January 6, 2026

Date OAL e-mailed executed order to agency: January 6, 2026

Date agency mailed executed order to parties:

c: Parties