



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

JENNIFER VELEZ
Commissioner

VALERIE HARR
Director

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

E.B.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 667-14
	:	
AND HEALTH SERVICES AND	:	
	:	
BERGEN COUNTY BOARD OF	:	
	:	
SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the documents in evidence. Neither party filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is July 24, 2014, 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 receipt. The Initial Decision in this matter was received on June 9, 2014.

At issue is the penalty imposed due to Petitioner's transfers to her niece totaling \$53,385.87. In August 2010, Petitioner's home was deeded to a limited liability company formed by Petitioner, her nephew, T.B., and her niece, E.B. Petitioner and T.B. each held 49% of the shares of the company. E.B. owned a 2% share. In January 2011, Petitioner transferred her 49% share of the home, valued at \$85,015, to P.B. The terms of payment were memorialized in an agreement between the members of the LLC and a promissory note signed by P.B.¹ According to the terms, P.B. put down a \$15 deposit and was to pay Petitioner \$49,000 at 4.5% interest for Petitioner's share. A \$36,000 credit was given to Petitioner's niece for room and board for the ten months prior to the sale. A \$3,000 monthly room and board credit would be applied prospectively toward the remaining \$49,000.

Based on my review of the record, I concur with the ALJ's findings that Bergen County determined the case properly and hereby ADOPT the Initial Decision in its entirety. According to the agreement, Petitioner was paying \$3,000 per month for room and board. Despite P.B.'s testimony that she was acting as her Aunt's caregiver, there is no mention of caregiving services to be provided, no caregiver agreement and no record of hours worked or services performed. Without any contemporaneous documentation regarding the services provided, the \$3,000 monthly payment is unwarranted.

I FIND that the record contains no support as to how the \$3,000 amount was calculated or that Petitioner received services commensurate in scope and prevailing market rate for caregiver services. I FIND that the Petitioner has not

¹ Dealings, including promissory notes, that occur between related parties are subject to scrutiny as they may be Medicaid planning techniques rather than arms-length transactions. E.g., Sable

shown the transfer was done for caregiving services or that Petitioner received fair market value. N.J.A.C.10:71-4.10(j).

THEREFORE, it is on this ~~4/4~~ day of July 2014,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Valerie Harr, Director
Division of Medical Assistance
and Health Services