

This matter concerns the denial of Petitioner's applications for Medicaid benefits. There are two applications at issue. The first one was filed by Petitioner's granddaughter and guardian in July 2013 and denied in September 2013 for failure to provide verifications regarding Petitioner's assets. During that month, the granddaughter was removed as guardian and the Office of the Public Guardian (OPG) was appointed. The OPG filed an application which was denied in January 2014 for failure to provide information regarding Petitioner's assets and transfers that were made during the lookback period.

The Initial Decision found that Petitioner's first application was properly denied as Petitioner's granddaughter failed to explain the numerous transfers from the accounts. At the fair hearing, the granddaughter refused to testify and asserted her rights under the Fifth Amendment to the United States Constitution. ID at 3. Since there is no explanation offered through Petitioner's representatives regarding the lack of verifications, that application remains denied.

With regard to the second application, the Initial Decision found that the OPG had provided some of the information requested by Union County but is still unable to explain what happened in various transfers. While the Initial Decision separates the failure to provide information to instances where the OPG is unable to provide verification and where the OPG is unwilling to provide verification, I must note that any transfer for less than fair market value during the look-back period is presumed to have been made for the purpose of establishing Medicaid eligibility. E.S. v. Division of Medical Assistance & Health Services, 412 N.J. Super. 340, 353 (App. Div. 2010); N.J.A.C. 10:71-4.10(i). It is the applicant's burden to rebut this presumption 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 transfer penalty is assessed regardless of the ability or willingness to provide verifications concerning the transfer. Thus, while I ADOPT the Initial Decision which returns the second application to Union County, the review of the information provided by the OPG will be viewed under the transfer presumption. Union County will then issue a new determination letter regarding Petitioner's October 2013 application.

THEREFORE, it is on this 16th day of OCTOBER 2014

ORDERED:

That the Initial Decision in this matter is hereby ADOPTED; and

That the matter is RETURNED to Union County for further action on the October 2013 application.



Valerie Harr, Director
Division of Medical Assistance
and Health Services