



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

PO Box 712

TRENTON, NJ 08625-0712

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**

I.L.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 01465-14
	:	
AND HEALTH SERVICES AND	:	
	:	
PASSAIC 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 OAL case file, documents in evidence and the Initial Decision in this matter. Neither party filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision is November 6, 2014, in accordance with an Order of Extension. The Initial Decision in this case was received on August 6, 2014.

This matter concerns the imposition of a penalty period due to transfer of assets. In April 2013, Petitioner began receiving Medicaid benefits. In October 2013, Petitioner

transferred a partial interest in her home to her son for less than fair market value. In November 2013, Petitioner recorded a deed evidencing that transfer and triggering a transfer penalty. Later that same month, Petitioner sold her home and received \$65,000 from the sale, making Petitioner ineligible for Medicaid benefits. The issue before the court is whether the transfer penalty period should be imposed the date the deed was recorded or the date Petitioner would have been otherwise eligible for Medicaid benefits.

As a federally funded program, New Jersey must comply with federal law. Effective February 6, 2006, Congress mandated that transfer penalties were to begin the later of (1) the first day of the month in which assets have been transferred; (2) the first day of the month after which assets have been transferred or (3) the date the individual becomes eligible and would be receiving institutional level of services but for the penalty period. 42 U.S.C.A. 1396p(c)(1)(d)(i). This provision of the Deficit Reduction Act is clear and leaves no room for interpretation or modification by the states.

Here, Petitioner became ineligible for Medicaid benefits upon the sale of her home. Petitioner did not submit any documentation regarding the spend down of her portion of the proceeds of the sale. Once the spend down is accomplished and Petitioner is found eligible for Medicaid benefits, the penalty period will be instituted in accordance with 42 U.S.C.A. 1396p(c)(1)(d)(i).

Thus, for the reasons set forth above and in the Initial Decision, I FIND that the penalty period was properly applied by Passaic County.

THEREFORE, it is on this 6th day of NOVEMBER 2014,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Valerie Harr, Director
Division of Medical Assistance
and Health Services