



**State of New Jersey**

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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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**

L.B.,	:	
	:	
PETITIONERS,	:	<b>ADMINISTRATIVE ACTION</b>
	:	
v.	:	<b>FINAL AGENCY DECISION</b>
	:	
DIVISION OF MEDICAL ASSISTANCE	:	<b>OAL DKT. NO. HMA 00766-14</b>
	:	
AND HEALTH SERVICES AND	:	
	:	
CUMBERLAND COUNTY BOARD	:	
	:	
OF SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the entire contents of the OAL case file. No exceptions to the Initial Decision were filed. Procedurally, the time period for the Agency Head to render a Final Agency Decision is September 4, 2014, pursuant to an Order of Extension.

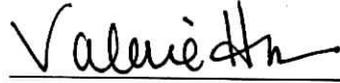
For the reasons which follow, I hereby MODIFY the ALJ's recommended decision. At issue is the penalty imposed by Cumberland County due to Petitioner's transfer of \$46,000 to her son. The ALJ found that the penalty period should be based only upon a transfer of \$5318.07. While, I agree with the ALJ's conclusion, I disagree with his interpretation of the 42 USC 1396p(c)(2)(C), the federal statute addressing penalty periods for the return of transferred assets and resources.

After reviewing the record, I find support for Petitioner's contention that the \$46,000 in transferred funds were returned to her in May of 2011, eighteen months prior to her application for Medicaid benefits. Correspondence from Petitioner's daughter, invoices reflecting cash payments and bank statements corroborate Petitioner's contention that \$33,000 was deposited into Petitioner's account and the remaining \$13,600 was given to her in cash. I am persuaded by the fact that there are invoices reflecting cash payments for Petitioner's personal expenditure totaling \$8281.93 (e.g., a hearing aid, homeowner's insurance and attorney's fees). However, the remaining \$5318.07 remains unaccounted for. Although Petitioner's daughter contends that the money was used to purchase a bed and for her mother's daily living expenses, there is no documentation to support this contention. Since this amount is unaccounted for, it is considered a transfer for less than fair market value. I agree with the ALJ that the period of ineligibility for the \$5319.07 transfer is twenty-five days.

THEREFORE, it is on this *27th* day of July 2014,

ORDERED:

That Petitioner is subject to a twenty-five day penalty period.

Handwritten signature of Valerie J. Harr in black ink.

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Valerie J. Harr, Director  
Division of Medical Assistance  
and Health Services