



CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

**State of New Jersey**  
DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES  
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JENNIFER VELEZ  
*Commissioner*

VALERIE HARR  
*Director*

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

L.L.,	:	
	:	
PETITIONER,	:	<b>ADMINISTRATIVE ACTION</b>
	:	
v.	:	<b>FINAL AGENCY DECISION</b>
	:	
DIVISION OF MEDICAL ASSISTANCE	:	<b>OAL DKT. NO. HMA 4146-2014</b>
	:	
AND HEALTH SERVICES AND	:	
	:	
ATLANTIC 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, the OAL case file and the documents in evidence. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is August 14, 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 30, 2014.

This matter concerns the imposition of a transfer penalty due to Petitioner's transfer of one-half ownership of her home in Vermont to her daughter in 2009. Petitioner had a stroke and heart attack in August 2013 while visiting another daughter in New Jersey. She filed an application for Medicaid benefits in September 2013. Atlantic County found Petitioner eligible as of December 1, 2013 but imposed a transfer penalty of five months and seven days based on the transfer.

A resource cannot be transferred or disposed of for less than fair market value during or after the start of the sixty month period (the "look-back period") before the individual becomes institutionalized or applies for Medicaid as an institutionalized individual. 42 U.S.C.A. § 1396p(c)(1); see also N.J.A.C. 10:71-4.10(a). Such transfers are viewed as being made for the sole purpose of establishing eligibility for Medicaid. Ibid. To discourage applicants from disposing of assets for the purpose of becoming eligible for Medicaid nursing home facility services, if such a transfer occurs, the applicant will be subject to a period of Medicaid ineligibility to be imposed once the person is otherwise eligible for Medicaid benefits. Ibid.; N.J.S.A. 30:4D-3(i)(15)(b).

Under the regulations, "[i]f an individual . . . (including any person acting with power of attorney or as a guardian for such individual) has sold, given away, or otherwise transferred any assets (including any interest in an asset or future rights to an asset) within the look-back period" a transfer penalty of ineligibility is assessed. N.J.A.C. 10:71-4.10 (c). The presumption that the transfer of assets was done to qualify for Medicaid benefits may be rebutted "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). It is Petitioner’s burden to rebut this presumption.

At the hearing Petitioner claimed that the transfer was done solely for a purpose other than qualifying for Medicaid. After her husband passed away in 1992, her daughter had moved into the home, which had been built in 1873 and been in her family ever since. In 2009, Petitioner was seventy-seven years old and had accumulated substantial debt. As a result, she filed for bankruptcy. In order to keep the home in her family, she added her daughter as a joint tenant with rights of survivorship.

Based on the unique facts and circumstances presented in the case, I hereby ADOPT the Initial Decision and FIND that Petitioner has rebutted the presumption that the transfer was done to apply for Medicaid.

THEREFORE, it is on this 8<sup>th</sup> day of AUGUST 2014

ORDERED:

That the Initial Decision is hereby ADOPTED.



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Valerie Harr, Director  
Division of Medical Assistance  
and Health Services