

In determining Medicaid eligibility for someone seeking institutionalized benefits, counties must review five years of financial history. 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). “A transfer penalty is the delay in Medicaid eligibility triggered by the disposal of financial resources at less than fair market value during the look-back period.” E.S. v. Div. of Med. Assist. & Health Servs., 412 N.J. Super. 340, 344 (App. Div. 2010). “[T]ransfers of assets or income are closely scrutinized to determine if they were made for the sole purpose of Medicaid qualification.” Ibid. Congress’s imposition of a penalty for the disposal of assets for less than fair market value during or after the look-back period is “intended to maximize the resources for Medicaid for those truly in need.” Ibid.

The applicant “may rebut the presumption that assets were transferred to establish Medicaid eligibility 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 burden of proof in rebutting this presumption is on the applicant. Ibid. The regulations also provide that “if the applicant had some other purpose for transferring the asset, but establishing Medicaid eligibility appears to have been a factor in his or her decision to transfer, the presumption shall not be considered successfully rebutted.” N.J.A.C. 10:71-4.10(i)2.

The Administrative Law Judge (ALJ) found that Petitioner failed to demonstrate that the transferred funds were made exclusively for some other purpose than to qualify for Medicaid. I concur. The transfers at issue in this matter stem from Petitioner’s failure to account for the \$62,737.01 cash withdrawals from Valley National Bank accounts

#2611 and #5426 jointly owned by Petitioner and her daughter, N.C. From December 2018 through December 2023, the following unverified transfers were made from account #2611: (1) \$2,000 on December 29, 2023; (2) \$2,000 on March 8, 2023; (3) \$2,600 on September 29, 2022; (4) \$2,150 on August 29, 2022; 5) \$2,100 on August 1, 2022; 6) \$2,308 on June 27, 2022; 7) \$2,100 on May 26, 2022; 8) \$2,200 on April 28, 2022; 9) \$2,000 on March 30, 2022; 10) \$2,150 on February 28, 2022; 11) \$2,150 on January 28, 2022; 12) \$2,600 on December 29, 2022; 13) \$2150 on August 25, 2021; 14) \$3,500 on October 28, 2021; 15) \$2,000 on November 29, 2021; 16) \$2,000 on July 29, 2020; 17) \$2,000 on May 28, 2020; 18) \$2,000 on April 29, 2020; 19) \$2,000 on February 27, 2020; 20) \$2,000 on January 28, 2020; 21) \$2,000.43 on November 14, 2019; 22) \$2,000 on October 24, 2019; 23) \$2,000 on September 4, 2019; 24) \$2,000 September 29, 2019; 25) \$2,500 on August 2, 2019; 26) \$2,000 on December 30, 2018. Thereafter, on April 24, 2023, checking account #5426 was closed. R-3. This account had a balance of \$6,228.58, and the funds were transferred to account #8314, solely owned by N.C. Ibid.

N.C. alleges that when her father passed away, he left money to her only and not her mother. N.C. also alleges that she deposited the money she received from her father into the joint savings account she held with Petitioner. N.C. further alleges the withdrawals were made to cover her car payments, rent, insurance and Petitioner's basic needs. While N.C. provided a copy of the November 2019 through November 2020 lease agreement and various utility bills, the cash withdrawals do not correspond with the monthly \$1,540.00 payment for rent or utility bills provided. P-1. No other receipts, written agreements or other documentary evidence was provided that would establish a nexus between the cash withdrawals made and monthly expenditures totaling \$62,727.01.

It is well established that the transfer of an asset jointly held with another person shall be considered transferred by the individual when action is taken. N.J.A.C. 10:71-

4.10(o). Over a five-year period, N.C. made a series of cash withdrawals from the joint accounts she owned with Petitioner. According to N.J.A.C. 10:71-4.10(b)(6)(ii), transfers of assets to a friend or relative for care or serviced provided free in the past are care or services in the past are presumed to have been delivered without compensation. If payment is to be made there must be a preexisting written agreement to pay for such services at the relevant market rate. No such credible documentation was presented here that support the \$62,727.01 transfer of Petitioner's resources within the five year look back period. Accordingly, I FIND that Petitioner failed to demonstrate that the funds at issue, totaling \$62,727.01 were made solely for a purpose other than to qualify for Medicaid benefits.

Thus, based upon my review of the record and for the reasons set forth herein, I hereby ADOPT the ALJ's recommended decision, as set forth above. Further, I FIND that the imposed penalty period of 163 days based upon transfers totaling \$62,727.01 was appropriate in this matter.

THEREFORE, it is on this 26th day of MARCH 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods OBO JLJ

Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services