



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

P.O. Box 712
Trenton, NJ 08625-0712

CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

J.W.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
CAMDEN COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 336-2016

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 filed below. Procedurally, the time period for the Agency Head to file a Final Decision is December 19, 2016 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 was received on November 4, 2016.

The matter arises regarding the imposition of a transfer penalty. Petitioner claimed that sale of his home to his daughter and her husband was for fair market value

as he and his wife had let the property fall into disrepair. Petitioner also set forth that his wife's spousal allowance was incorrectly determined but failed to provide any testimony in this regard. Accordingly, that issue was dismissed.

In determining Medicaid eligibility for someone seeking institutionalized benefits, the 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.<sup>1</sup> N.J.A.C. 10:71-4.10 (c). It is Petitioner's burden to overcome the presumption that the transfer was done – even in part – to establish Medicaid eligibility. 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).

Here Petitioner and wife sold their home in January 2014 to their daughter and son-in-law for \$68,000. The tax assessed value using the equalization table was \$120,456.30. ID at 2. Petitioner applied for benefits in July 2014. He had entered the nursing home in June 2014 having resided at an assisted living facility since March 2013. Camden County determined that Petitioner had not received \$52,456.30 of the fair market value and assessed a penalty for that amount beginning on July 1, 2014.

At the hearing Petitioner presented testimony regarding the state of the home at the time of the sale. In order to permit Petitioner to remain at the assisted living facility,

---

<sup>1</sup> Congress understands that applicants and their families contemplate positioning assets to achieve Medicaid benefits long before ever applying. To that end, Congress extended the look back period from three years to five years. Deficit Reduction Act of 2005, P.L. 109-171, § 6011 (Feb. 8, 2006).

his daughter and son-in-law had contributed funds outright to Petitioner and, due to the dilapidated condition of the property, agreed to purchase the home for a reduced price so they could repair the damage. ID at 6. Petitioner's wife feared the home would be condemned. In 2013, the daughter and son-in-law paid \$30,000 as a down payment on the home which was used to pay for the assisted living facility while the balance of the purchase price was paid at closing.


The Initial Decision held that Petitioner had provided adequate proof that the reduced price of the home was based on its deplorable condition. While this was not an arm's length transaction, the price the family agreed to was in line with the status of the house and the funds received were used to pay for Petitioner's care.

Based on my review of the record, I concur with the Initial Decision that Petitioner received fair market value for the home. While the tax assessed value is often the best indicator of that value, instances where this is not the case must be supported by other competent evidence of the value the property would command on the open market. I am satisfied that the record contains such evidence.

THEREFORE, it is on this <sup>8<sup>th</sup></sup> day of DECEMBER 2016,

ORDERED:

That the Initial Decision is hereby ADOPTED.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services