



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Director

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

C.H.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

ATLANTIC COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 7039-2016

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. Both parties filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is February 21, 2017 in accordance with an Order of Extension.

The matter arises regarding Petitioner's sale of her home. Petitioner applied for Medicaid benefits in July 2015. By notice dated March 18, 2016, Petitioner was found

eligible as of August 1, 2015 but assessed a transfer penalty of \$131,629. Petitioner does not contest \$55,029 of that amount. At the hearing Petitioner argued that the \$55,000 price that her home sold for was fair market value. Atlantic County used the tax assessed value pursuant to N.J.A.C. 10:71-4.1(d)(1)(iv) and determined that the sale price did not reflect fair market value. The Initial Decision found that the \$55,000 sale price was fair market value based on the condition of the house and reversed that portion of the penalty. I do not find the record before me supports that conclusion and hereby REVERSE the Initial Decision.

Petitioner's claim that the municipal tax assessment was too high and did not reflect the market value of the property was not supported by competent evidence. N.J.A.C. 1:1-15.5(b), the residuum rule, requires "some legally competent evidence" to exist "to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." No such evidence was presented in this matter that would overcome the tax assessment.

The equity value of real property is "the tax assessed value of the property multiplied by the reciprocal of the assessment ratio as recorded in the most recently issued State Table of Equalized Valuations, less encumbrances, if any..." N.J.A.C. 10:71-4.1(d)(1)(iv). The regulation is very specific, it states that "[t]he equity value of real property is" based on this calculation and does not leave room for interpretation. While the tax assessed value of a home is not necessarily an accurate reflection of the price that the property "can reasonably be expected to sell for on the open market in the particular geographic area" absent credible independent evidence, the regulation provides for a uniform determination of the value of property, which can be a subjective art. N.J.A.C. 10:71-4.1(d). See also N.J.A.C. 10:71-4.7(b).

Rather, there is inherent inconsistency in the Initial Decision's findings that both prices of \$99,000 and \$55,000 were based on comparable sales. The home was originally listed at \$115,000 on August 22, 2015 and then, two weeks later, reduced to \$99,000 on "the recommendation of the realtor based upon the condition of the property and comparable residential sales for similar homes in the same geographic area." ID at 6. In relying on comparable sales to set \$99,000 as the appropriate price, the sale price of \$55,000 cannot be determined to be fair market price based on the same "comparable sales of similar properties in the area" that supported the higher \$99,000 price.

The record also indicates that in April 2014, Petitioner's homeowner insurance policy was canceled due to an exterior inspection of the house. P-13. The inspection noted a damaged soffit and "some dry rot" and peeling paint on two windows. P-12. Petitioner's granddaughter stated she was able to obtain insurance with another carrier after repairs were made which raises questions about the condition of the home as alleged by the new buyer. There is no mention of the buyer's complaints of "a crack in the foundation, the porch . . . separating from the house and most of the windows" needing to be replaced in the letter from the insurance company. ID 5 -6. It can be presumed that these conditions would have been apparent when the insurance company conducted the exterior inspection of the home. As Atlantic County noted in its exceptions, no home inspection was conducted in the 2015 transaction nor was there any appraisal that would show evidence of the market value for this property.


Rather Petitioner provided multiple printouts from Zillow.com for the purpose of showing comparable sales. Homes selling for the same price do not amount to comparable properties. There is also a "certified" email from a realtor attesting that the

price Petitioner received was based on market conditions which is belied by the finding that the realtor's recommendation that \$99,000 was the correct market value of the property. The cases cited in the Initial Decision are dissimilar as appraisals were presented to determine the value of the properties. There was no such appraisal presented in this case. As such there is insufficient evidence to support the finding that \$55,000 was the fair market value.

THEREFORE, it is on this ^{17th} day of FEBRUARY 2017,

ORDERED:

That the Initial Decision is hereby REVERSED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services