



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

ESTATE of V.C., :
PETITIONER, : ADMINISTRATIVE ACTION
v. : FINAL AGENCY DECISION
DIVISION OF MEDICAL ASSISTANCE : OAL DKT. NO. HMA 1175-2017
AND HEALTH SERVICES, :
RESPONDENT. :

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. Both parties filed exceptions. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is September 5, 2017, 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 July 20, 2017.

This matter concerns the lien placed on Petitioner's property to reimburse the State of New Jersey for \$103,293.25 in correctly paid benefits. N.J.S.A. 30:4D-7.2a.

Petitioner's daughter claims that she was not aware that Medicaid would seek reimbursement from the estate and that the home was not part of the estate as she held it with her mother as joint tenants with right of survivorship. She also requested a waiver of the lien due to hardship. N.J.A.C. 10:49-14.1(h).

The Initial Decision determined that a lien for correctly paid benefits was properly placed on the property owned by Petitioner at the time of her death. N.J.S.A. 30:4D-7.2(a)(3). See also 42 U.S.C. § 1396p(b)(4)(b) and N.J.A.C. 10:49-14.1(1). Moreover, it is well settled that under federal and state law DMAHS must take "all necessary action to recover the cost of benefits correctly provided to a recipient from the estate of said recipient." Estate of DeMartino v. Division of Medical Assistance and Health Services, 373 N.J. Super. 210, 218 (App. Div. 2004), certif. denied, 182 N.J. 425 (2005)

The Initial Decision addressed the hardship waiver standard found at N.J.A.C. 10:49-14.1. The criteria for finding that the lien creates a hardship require a showing that the lien would exhaust the estate and if satisfaction of the lien would cause the heirs to seek public assistance themselves. That was not done here and the ALJ correctly found that Petitioner's daughter had not met the requirement.

In exceptions, Petitioner argued that the lien on the home was improper due to the caregiver exemption found in N.J.A.C. 10:71-4.7(d). That regulation permits a waiver of a penalty imposed for a transfer of assets that occurs prior to or after establishing Medicaid eligibility. Petitioner did not transfer the home to her daughter during her lifetime and held title at the time of death. As such, the caregiver exemption is inapplicable to this matter.

Thus, based on my review of the record and the facts in this case, I hereby
ADOPT the Initial Decision in its entirety.

THEREFORE, it is on this ^{29th} day of AUGUST 2017

ORDERED:

That the Initial Decision is hereby ADOPTED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services