

Petitioner, through the law firm her Power of Attorney hired, filed a Medicaid application on September 13, 2018. Exhibit C. The cover letter that accompanied the application recounts what was enclosed in the application and states Petitioner's property "is currently listed for sale. I will forward copy [sic] of the listing agreement when it becomes available." The letter is signed by the firm's public benefits specialist. Burlington County followed up and asked for a copy the listing agreement in a December 13, 2018 notice. It became apparent when the listing agreement dated January 22, 2019 was provided under cover of letter dated January 23, 2019, that the property had not been listed as alleged in September. R-5. As of March 4, 2019, the property had not been listed by the real estate broker and was considered "off-market." R-6. Burlington County denied the application for excess resources due to the failure to list the property.

Unless specifically excluded, all resources are considered when determining Medicaid eligibility. N.J.A.C. 10:71-4.1(b). Real property that can be converted to cash for the support and maintenance of an individual is included in the resource determination. Additionally, Medicaid Communication No. 87-26 (effective August 18, 1987) instructs to temporarily exclude the value of a non-liquid resource if the Medicaid applicant or recipient agrees to and cooperates with a plan of liquidation. Once the resource is liquidated, if the individual's countable resources exceed the maximum limit, the county welfare agency will terminate eligibility until the individual's resources are spent-down to the appropriate limit.

Petitioner, who had been residing in a nursing home since May 2018, asserts that since she was never asked to enter a plan of liquidation prior to the March 4, 2019 she could not be denied. However, while a plan of liquidation should have been signed at the time of the application, Petitioner, through her attorney, had averred that the house had been listed for sale in September 2018 and the listing agreement would be forthcoming. When the listing agreement had not been produced by December 2018, Burlington requested it. The agreement had not been signed in September 2018 as alleged but

signed the day before the law firm produced it. Burlington County noted, and the real estate agent agreed, the listing agreement contained errors including the failure to list the address or a price for the property.¹ R-5. When combined with the fact that the property was still not listed for sale by March 2019, it was reasonable for Burlington County to conclude that Petitioner's property should not be excluded.

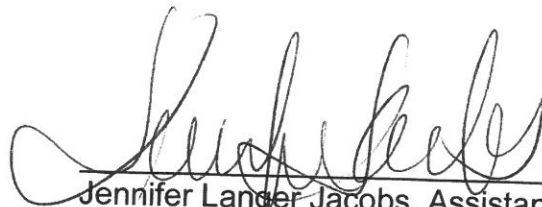
The Medicaid Communication 87-26 requires that an applicant agree to sell a non-liquid resource and take steps to do so within six months. While Petitioner should have signed a plan of liquidation, Burlington County relied on the statement by the law firm that the property had already been listed for sale at the time of the application. Despite this, Petitioner managed to sell the home within the time period permitted under the plan of liquidation. Due to the unique facts and circumstances in this case reflected above and in the record, I FIND that the home should not be considered as an available resource for the September application.

THEREFORE, it is on this ^{2nd} day of JANUARY 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED; and

That Burlington County shall process the September 2018 application.



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

¹ The property was also being sold as-is according to the listing agreement and the buyer was responsible for all repairs and for obtaining a certificate of occupancy. R-5. However, the closing agreement shows that \$2,560.00 was withheld as closing costs for home repairs. Exhibit P.