



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Medical Assistance and Health Services

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

P.C.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES AND :

MIDDLESEX COUNTY BOARD OF :

SOCIAL SERVICES, :

RESPONDENTS. :

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 21753-25

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 20, 2026, in accordance with an Order of Extension.

This matter arises from the imposition of a transfer penalty on Petitioner's receipt of Medicaid benefits. By letter dated October 1, 2024, the Middlesex County Board of Social Services (Middlesex County) advised Petitioner that a penalty of 137 days was

assessed on Petitioner's receipt of Medicaid benefits resulting from the transfer of resources, including money in her bank accounts and a house, for less than fair market value, during the five-year look-back period. (R-B). The transfer penalty for the transfer of the house was 91 days. Ibid. Petitioner appealed the transfer penalty only for the home. The Initial Decision found that Petitioner had proven by a preponderance of the evidence that the Petitioner did not sell their house for less than market value, and that the transfer was not done for the purposes of qualifying for Medicaid benefits.

In determining Medicaid eligibility for someone seeking institutionalized benefits, counties must review five years of financial history. Under the regulations, "[i]f an individual, or his or her spouse (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.

In this matter, in 2022, a home owned by the Petitioner was listed for sale by Vander Morais, a licensed New Jersey realtor. ID at 2. A market analysis of properties that were sold in the same area and were similar in size, style, build and condition to the Petitioner's property at the time was provided to the Petitioner's attorney in fact, Diane Cinkewicz. Ibid. The market analysis showed sales that ranged from \$55,000 to \$105,000. Ibid. Cinkewicz and Morais both testified that the property was in a deplorable and uninhabitable condition. Ibid. Due to the extensive structural damage in the property and the numerous animals living there, Cinkewicz listed the property at \$130,000. Id. at 2. The Petitioner received five offers and accepted the highest offer of \$150,000. Ibid. In an all cash deal, the property closed on September 16, 2022. Ibid. The money from the sale was used to pay for the Petitioner's nursing home care. Ibid.

On November 20, 2025, a retroactive exterior only appraisal was done by Robert E. DePetro, Jr., a New Jersey certified residential real estate appraiser, on the property with an effective date of September 16, 2022. Id. at 3. This appraisal resulted in a fair market value of the property as of September 16, 2022, as \$150,000. Ibid. DePetro explained that he did not use the tax assessed value as a factor in determining the fair market value because tax assessments are not always up to date and the assessment may have been performed several years before the effective date of the appraisal. Ibid. De Petro also explained that usually sellers do not order appraisals. Id. at 4.

During the fair hearing, Middlesex County argued that the Petitioner intended to sell their home at less than fair market value to qualify for Medicaid. Id. at 5. In support of its argument, Middlesex County multiplies the tax assessed value by the reciprocal of

the assessment as recorded in the most recently issued State Table of Equalized Valuations as the regulations instruct, to reach a fair market value of \$190,180.31, which is \$40,180.31 less than what the home sold for. Ibid.

In the Initial Decision, the Administrative Law Judge (ALJ) found that Middlesex County failed to take several factors into consideration. Ibid. This includes the numerous efforts to price the property for sale. Ibid. The property was listed on the open market by a licensed realtor. Moreover, the market analysis completed by realtor actually indicated a lower value than the accepted offer. The price range of the multiple offers received on the property were also comparable, and the Petitioner accepted the highest offer. Ibid. Furthermore, the retroactive appraisal indicated a \$150,000 value, the same as the sale price. The ALJ took all these factors into consideration and concluded that the property was sold at or above fair market value, and the sale was not made in order to qualify for Medicaid. Ibid. I agree.

As noted above, the Petitioner received multiple offers and accepted the highest one. An appraisal was not done at the time of sale because the Buyer purchased the property without financing. Id. a 3. The retroactive appraisal completed on November 20, 2025, by a certified residential real estate appraiser valued at the property at \$150,000 as of the closing date. Ibid. As the purchase price was also \$150,000, the property was not transferred for below market value. Additionally, the appraiser explained that he did not use the tax assessed value as a factor in determining the fair market value because tax assessments are not always up to date and the assessment may have been performed several years before the effective date of the appraisal. Furthermore, since all the proceeds from sale were used to pay for the Petitioner's nursing home care, the Petitioner has also met their burden to prove that the house was not sold in order to qualify for Medicaid.

Thus, based on the record before me and for the reasons enumerated above, I hereby ADOPT the Initial Decision and FIND that a transfer penalty of 91 days was not appropriate.

THEREFORE, it is on this 20th day of August, 2026

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods
Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services