

on the share of a home his late wife transferred to her son upon her death.

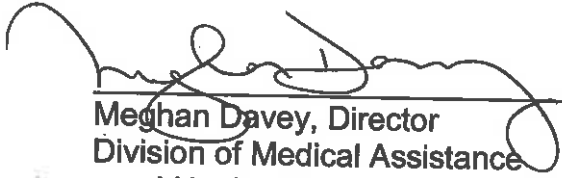
The prior Initial Decision was reversed and remanded as Petitioner had not elected against his wife's estate. Additionally there were questions about the valuation of the estate. Estate is defined as "all of the property of a decedent." N.J.S.A. 3B:1-1. The home was owned by Petitioner's wife at the time of her death and her share is part of the augmented estate. See Matter of Estate of Brown, 448 N.J. Super. 252 (App. Div. 2017) and N.J.S.A. 3B:8-3. When the wife died, her ownership in any asset becomes part of the estate for purposes of calculating the elective share. It is the assets in Petitioner's wife's name, at the time of death, including those owned with another under rights of survivorship, which comprise the augmented estate. N.J.S.A. 3B:8-3.

On remand, the facts surrounding the value and financing of the house were provided and it was determined that Petitioner's wife had equity of \$96,715 in the home that would be part of her estate. I ADOPT the findings of the Initial Decision with regard to the calculations of the value of the home and the estate. As such, Petitioner would be entitled to \$32,238 under the elective share and the transfer penalty is modified to 96 days.

THEREFORE, it is on this ^{19th} day of OCTOBER 2018,

ORDERED:

That the Initial Decision is hereby ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services