

the State of New Jersey for \$58,568.02 in correctly paid benefits. ID at 1. The Petitioner's father, R.S., Sr., appealed the claim and requested a hardship waiver or other compromise. Ibid. On November 14, 2024 DMAHS sent R.S., Sr., a notice that his request did not meet the criteria for a hardship waiver/compromise. Id. at 2. On or about December 5, 2024, the Estate, through the Petitioner's brother J.S., appealed the denial of a request for a hardship waiver. Ibid.

According to N.J.S.A. 30:4D-7.2 to 7.6, amounts advanced under the Medicaid program may be evidenced by filing of an estate lien against the real property of the decedent. In this matter, Petitioner seeks a hardship exemption pursuant to N.J.A.C. 10:71-4.10 (q)(1) which provides:

1. For the purposes of this chapter, undue hardship shall be considered to exist when:
 - i. The application of the transfer of assets provisions would deprive the applicant/beneficiary of medical care such that his or her health or his or her life would be endangered. Undue hardship may also exist when application of the transfer of assets provisions would deprive the individual of food, clothing, shelter, or other necessities of life; and
 - ii. The applicant/beneficiary can irrefutably demonstrate the transferred assets are beyond his or her control and that the assets cannot be recovered. The applicant/beneficiary shall demonstrate that he or she made good faith efforts, including exhaustion of remedies available at law or in equity, to recover the assets transferred. Ibid.

The Petitioner was the owner of a home at 7- H----- Avenue, Mantua, New Jersey. This is the only estate asset. He received Medicaid benefits during his lifetime, resulting in a Medicaid estate lien of \$58,568.02 for medical services provided on or after age 55.

ID at 2. In 2021 the Petitioner was a single fifty-eight-year-old residing in Mantua Township, Gloucester County, NJ. Id. at 3. The home in which he resided he purchased in 1987 for \$67,900. Ibid. The Petitioner had no assets other than their home. Ibid. Medicaid made payments for care and transportation for the Petitioner from April 30, 2021, to June 4, 2024. Ibid. At the time of their death, decedent did not have a surviving spouse. Nor was the Petitioner survived by a child under the age of twenty-one or a child who is partially or totally disabled. Ibid. Therefore, DMAHS holds a \$58,568.02 statutory lien claim against the estate for paid medical assistance benefits pursuant to N.J.S.A. 30:4D-7.2 to -7.6.

At the Fair Hearing, the Petitioner's brother, J.S., testified that the financial situation of the Petitioner's father, R.S., Sr., should be considered. ID at 4. J.S. became Power of Attorney for his father and discovered frequent weekly cash withdrawals, over the years, ranging from \$500 to \$1,500, to help the Petitioner pay for the house and bills. Ibid. J.S. testified that his parents are now in a financially dire situation. R.S., Sr., worked until he was seventy-nine years old and is now on government assistance programs. Ibid. They live in a home with a mortgage and no retirement investments, and rely on social security as their sole form of income. Ibid.

In the Initial Decision the Administrative Law Judge (ALJ) found that the Petitioner had not met their burden to demonstrate an undue hardship. I agree. N.J.S.A. 30:4D-7(j) authorizes DMAHS "[t]o take all necessary action to recover the cost of benefits correctly provided to a recipient from the estate of said recipient." Furthermore, Federal law provides that DMAHS "shall" assert this lien. 42 U.S.C.A. 1396p(b)(1)(8). DMAHS "is required by N.J.S.A. 30:4D-7(j) to take all necessary action to recover the cost of Medicaid

benefits correctly provided from the estate of a Medicaid recipient." Estate of DeMartino v. DMAHS, 373 N.J.Super 210, 218 (App. Div. 2004) (upholding estate lien for correctly paid benefits). DMAHS may waive or compromise an estate lien where reimbursement of the lien would constitute undue hardship. N.J.A.C. 10:49-14.1(h). The regulation provides as follows: "Undue hardship can be demonstrated only if the estate subject to recovery is or would become the sole income-producing asset of the survivors, and pursuit of recovery is likely to result in one or more of those survivors becoming eligible for public assistance and/or Medicaid benefits." N.J.A.C. 10:49-14.1 (h)(1). There is also an exception for the existence of a "surviving spouse or any minor, blind or permanently and totally disabled children. Id. at (j). At the time of their death, decedent did not have a surviving spouse. Nor was the Petitioner survived by a child under the age of twenty-one or a child who is partially or totally disabled. The Petitioner has not met their burden to demonstrate an undue hardship. The ALJ also stated that neither J.S., nor his parents would be responsible for payment of this bill until the property is sold or transferred. Id. at 6. The lien sits on the property and will not increase as there is no interest accrued on the debt. Ibid. Further, it extends only to the value of the property, and not to any other asset of the family. Ibid.

Accordingly, based on the record before me and for the reasons set forth above, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this 26th day of September

2025, ORDERED:

That the Initial Decision is hereby ADOPTED as set forth above.

Gregory Woods

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