

equates to 259 days. At the hearing Petitioner argued that the \$17,500 price that her home sold for was fair market value given the poor condition of the property. Camden County used the tax assessed value pursuant to N.J.A.C. 10:71-4.1(d)(1)(iv) and determined that the sale price did not reflect fair market value. The Initial Decision found that the \$17,500 sale price was not fair market value and that the Petitioner was subject to a transfer penalty.

Under the regulations, “[i]f an individual . . . (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). It is Petitioner's burden to overcome the presumption that the transfer was done – even in part – to establish Medicaid eligibility. N.J.A.C. 10:71-4.10(j). Petitioner bears the burden of proof to demonstrate that she received fair market value for the assets transferred. N.J.A.C. 10:71-4.10(j).

Fair market value is “an estimate of the value of an asset, based on generally available market information, if sold at the prevailing price at the time it was actually transferred.” N.J.A.C. 10:71-4.10(b)(6) (emphasis added). The Petitioner sold her house to her friend, realtor R.D., on November 21, 2016 for \$17,500.¹ Petitioner claims that the Comparable Market Analysis (CMA) of the property, prepared by R.D., showed the property was only worth \$25,000. She also argued that the poor condition of the house justified the \$17,500 sale price. In support of this, R.D. testified that substantial work was necessary to prepare the property for sale. He provided a site report from Unified Construction Company, LLC, a company partially owned by R.D. The site report

¹ R.D. has been a licensed real estate agent since 1999. He was not the listing agent for this property, but he worked in the same office as the listing agent for Petitioner's property.

did not provide a breakdown of the goods and services provided, only the total cost of renovation. Furthermore, no pictures of the property in its allegedly uninhabitable condition were presented and no independent appraisal was obtained prior to or at the time of sale.

Petitioner's claim that the municipal tax assessment was too high and did not reflect the market value of the property was not supported by competent evidence. N.J.A.C. 1:1-15.5(b), the residuum rule, requires "some legally competent evidence" to exist "to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." No such evidence was presented in this matter that would overcome the tax assessment.

Accordingly, Camden County was correct to utilize the State Equalization Table to determine the value of Petitioner's property. The equity value of real property is "the tax assessed value of the property multiplied by the reciprocal of the assessment ratio as recorded in the most recently issued State Table of Equalized Valuations, less encumbrances, if any..." N.J.A.C. 10:71-4.1(d)(1)(iv). The regulation is very specific, it states that "[t]he equity value of real property is" based on this calculation and does not leave room for interpretation. While the tax assessed value of a home is not necessarily an accurate reflection of the price that the property "can reasonably be expected to sell for on the open market in the particular geographic area" absent credible independent evidence, the regulation provides for a uniform determination of the value of property, which can be a subjective art. N.J.A.C. 10:71-4.1(d). See also N.J.A.C. 10:71-4.7(b).

However, the most recently issued State Table of Equalized Valuations used by Camden County and entered into the record is not the most updated version of that table, resulting in an incorrect assessed penalty amount. The most recently issued 2016 Table of Equalized Valuations (As Amended by the Tax Court of Appeals) can be

found at <http://www.state.nj.us/treasury/taxation/lpt/lptvalue.shtml>. With this information, the adjusted fair market value of the home is \$127,022.04. After subtracting the sale price of \$17,500, the correct penalty is \$109,522.09 which equates to 329 days. (See Medicaid Communication 16-05).

The Petitioner offered no corroborating evidence to establish that these transfers were done for a purpose other than to qualify for Medicaid benefits, nor was she able to rebut the presumption that the transfers were for less than fair market value. N.J.A.C. 10:71-4.10(j).

THEREFORE, it is on this ^{16th} day of MAY 2018,

ORDERED:

That the Initial Decision is hereby ADOPTED, and

That the Initial Decision is MODIFIED to reflect the equity value calculated pursuant to the State Table of Equalized Valuations as amended by the Tax Court of Appeals.



Meghan Davey, Director
Division of Medical Assistance
and Health Services