



September 10, 2021. R-1 at Exhibit A. This was Petitioner's second Medicaid application. ID at 3. Petitioner lived at home with his spouse and was seeking coverage for in-home support services. Ibid. Among the assets identified by Petitioner on his September 10, 2021 application was a piece of property owned by Petitioner in Andhra Pradesh, India. Respondent's Brief at Exhibit A. The application valued this asset at \$86,852. Ibid.

On September 29, 2021, Petitioner's counsel submitted additional information to MCBSS including a plan of liquidation for the property in India. Petitioner's Brief at Exhibit E. The Plan for Liquidation included a photocopy of an advertisement in a local newspaper in India on August 31, 2021. Ibid. The advertisement provided the location of the property and the lot size. Ibid. The advertisement also listed contact information for Petitioner's daughter with her New Jersey address and telephone number. Ibid. The plan of liquidation included a photocopy of a letter, dated September 1, 2021, from Varma Real Estates & Developers, providing that the agency listed Petitioner's property for sale and are actively seeking buyers; however, due to the COVID-19 pandemic, showings had been limited. Ibid.

MCBSS issued a denial letter to Petitioner on November 15, 2021, stating that Petitioner's share of assets was over the resource limit pursuant to N.J.A.C. 10:71-4.5 and -4.8. Respondent's Brief at Exhibit B. With its letter, MCBSS included a breakdown of Petitioner's assets. Ibid. Among the assets was Petitioner's property in India, which MCBSS valued at \$86,852, as set forth on Petitioner's application. Ibid. As a result of this property, Petitioner's joint assets totaled \$124,150.37, as of the date of Petitioner's application. Ibid. Based upon the Spousal Resource Assessment Worksheet included with the denial letter, MCBSS determined that after accommodating the community spouse's share of assets, the resource level at which Petitioner's eligibility could be established was \$84,590.20. Ibid. Petitioner's joint assets, totaling \$124,150.37, thus, exceeded this resource level to qualify for benefits.

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 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. The temporary exclusion of the asset's value is "for the period specified in the plan of liquidation or until its liquidation occurs" as long as the applicant "cooperates with the plan's conditions." Medicaid Communication No. 87-26. For real property, applicants are required to make "reasonable efforts" to sell the property within six months and the liquidation plan must begin on the date of the application for Medicaid benefits. Ibid. 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 asserts that MCBSS erred in denying his September 10, 2021 application because it failed to treat the property as an excluded resource despite the information provided on September 29, 2021, showing that the property had been listed for sale with a local broker. The Initial Decision found that the plan of liquidation submitted by Petitioner was deficient, as it failed to include any information related to the sale price of the property, any contractual arrangement or other terms under which the broker would continue to seek a buyer for the property, or any details of what they were doing to advance the sale of the property beyond the singular newspaper advertisement placed on August 31, 2021. ID at 9. I concur. Medicaid Communication 87-26 specifically provides that "[r]eal property subject to a plan of liquidation shall be offered at any asking price named by the applicant, but not less than the price set forth by an independent appraisal paid for by the county welfare agency. Acceptance of any purchase offer at a lower price must be approved by the county

welfare agency.” While there was no independent appraisal in this matter as a result of the property being located in India, MCBSS accepted Petitioner’s attestation of the assessed value of the property, as set forth on his application. However, the information submitted by Petitioner in relation to the listing of the property for sale, failed to set forth the purchase price of the property. Without the purchase price listed for the property, it is unclear whether Petitioner would have obtained the full value of the property, which he alleged was \$86,852 once the property was sold. Without the price at which the property was being offered for sale, the plan of liquidation was deficient, as there was no indication that there was a good faith effort to sell the property at a reasonable market price. I further note that there is nothing in the record to show that the property has been sold since the plan of liquidation was submitted to MCBSS.

Accordingly, for the reasons set forth in the Initial Decision and set forth above, I hereby ADOPT the Initial Decision’s findings that Petitioner failed to demonstrate that good faith efforts were being made to liquidate the property that were sufficient to exclude it as an inaccessible asset, and MCBSS’s denial of Petitioner’s application for being over resources was therefore appropriate.

THEREFORE, it is on this 1st day of JULY 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Carol Grant OBO Jennifer Langer  
Jacobos

Digitally signed by Carol Grant OBO Jennifer  
Langer Jacobos  
Date: 2022.07.01 09:26:06 -04'00'

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