



This matter concerns the transfer of assets by Petitioner totaling \$126,070.88. The issue presented here is whether Middlesex County Board of Social Services (Middlesex County) correctly imposed the transfer of penalty under N.J.A.C. 10:71-4.10 (b)(6)(iii).

On November 2, 2023, Petitioner applied for Medicaid benefits through their Designated Authorized Representative (DAR). (R-1.) On April 9, 2024, Middlesex County requested Petitioner to provide a copy of the property tax statement and the assessed property value for 2020 (R-3.) On April 25, 2024, Middlesex County received the requested documents, including the deed. (R-4.) Per the deed executed on March 1, 2013, Petitioner, as a life tenant, conveyed their primary residence to the remaindermen. Ibid. Petitioner (Grantor) has the right to use and occupy the property and is responsible for the payment of all expenses during the term of Grantor's use and occupancy; however, Grantor under no circumstance shall be entitled to receive any portion of the proceeds of sale if the property is sold during their lifetime. Ibid.

While Middlesex County determined that Petitioner was financially eligible for Medicaid benefits as of November 1, 2023<sup>1</sup>, they imposed a 327-day penalty period against Petitioner. On April 26, 2024, Middlesex County issued a penalty notice. (R-5.) Middlesex County argued that because Petitioner is a life tenant, they have a beneficial interest in a property.

N.J.A.C. 10:70-4.10 (b)(6)(iii) dictates that under a life estate, an individual who owns property transfers the ownership of that property to another individual, while retaining for the rest of his or her life, or the life of another person, certain rights to that property. A life estate entitles the owner of the life estate to possess, use, and obtain profits from the property as long as they live, although actual ownership of the property has passed to another individual.

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<sup>1</sup> Petitioner passed away on May 8, 2024.

The Administrative Law Judge (ALJ) found that Petitioner did not have a life estate interest in the house, and thus did not transfer an asset for Medicaid purposes when the house was sold in 2021. ID at 7. The ALJ also found that Petitioner was explicitly not entitled to any income from the property for the rest of her life, and Petitioner was not a life tenant simply because such terminology was used in the deed. Ibid. While Petitioner is described as a "life tenant" in the 2013 deed, the trust document uses no such terminology. Ibid. At most, Petitioner's "life estate" consisted only of the right to live in her house for the rest of her life and nothing more. Ibid. It did not include rights typically considered inherent in a life estate interest. Ibid. If it had, Middlesex County's argument that Petitioner transferred assets without proper compensation in return would be more compelling. Ibid. I agree.

It is a long-standing principle that life estates have value. Middlesex County relied on S.P. v. Div. of Med. Assistance and Health Servs., HMA 911-2016 case, where, unlike in the current case, Petitioner's life estate had a value that was not compensated at the time of the property's sale.

N.J.A.C. 10:71-4.10 (b)(6)(iii) dictates that a key element of life estate on the property is the right to the proceeds of sale during the Petitioner's lifetime. However, this element of life estate was excluded from Petitioner's deed. Therefore, Petitioner's life estate had no value that was compensated at the time of the sale of the property in 2021.

Based on the record before me, the law and the facts of this case do not support a finding that the transfer of penalty should be imposed. Thus, I hereby ADOPT the Initial Decision and Return the matter to Middlesex County to calculate Petitioner's eligibility date for Medicaid benefits without the transfer of penalty, and issue a new eligibility notice accordingly.

THEREFORE, it is on this 2nd day of DECEMBER 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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