STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2156

In re the Matter of:
Esther Schmalz and the Commissioner of
Minnesota Department of Human Services,
Renville County Human Services.

Filed August 12, 2019
Affirmed
Halbrooks, Judge

Renville County District Court
File No. 65-CV-18-157

Keith Ellison, Attorney General, Ali P. Afsharjavan, Assistant Attorney General, St. Paul, Minnesota (for appellant Commissioner of Minnesota Department of Human Services)

Casey J. Swansson, Jon C. Saunders, Anderson Larson Saunders Klaassen & Dahlager, P.L.L.P., Willmar, Minnesota (for respondent Esther Schmalz)

David J. Torgelson, Renville County Attorney, Olivia, Minnesota (for Renville County)

Considered and decided by Halbrooks, Presiding Judge; Reyes, Judge; and Cochran, Judge.

S Y L L A B U S

Under the terms of Minn. Stat. § 256B.056, subd. 4a (2018), a community spouse's non-homestead life-estate interest is not salable unless the owner of the remainder interest intends to purchase the community spouse's life estate or the entire property is sold. When a life estate is deemed not salable, it is not considered for purposes of determining eligibility for medical-assistance long-term care benefits for the institutionalized spouse.

O P I N I O N

HALBROOKS, Judge

Appellant Commissioner of Minnesota Department of Human Services challenges a district court order reversing the commissioner's determination that respondent applicant was ineligible for medical-assistance long-term care (MA-LTC) benefits. The commissioner asserts that the district court erred by holding that the value of non-homestead life-estate interests held by the applicant's community spouse is not considered available to the applicant for purposes of eligibility. We affirm.

FACTS

Between 1987 and 2002, respondent Esther Schmalz and her husband, Marvin Schmalz, sold three parcels of farmland to their sons by warranty deeds, reserving for themselves a life estate in each parcel. In 2015, then 85-year-old Esther[1] entered a long-term care facility while 93-year-old Marvin continued to reside at the couple's homestead property.

In April 2017, Esther submitted an application for MA-LTC benefits, after which Renville County conducted an evaluation of the assets owned by Esther, the "institutionalized spouse," and Marvin, the "community spouse," as a step toward determining eligibility. The county determined that the couple's assets included homestead property, a checking account, the cash value of life-insurance policies, and the couple's life-estate interests in the three parcels of farmland previously conveyed to their sons. It is

[1] For clarity, we refer to Esther Schmalz and Marvin Schmalz by their first names in this opinion.

undisputed that the couple's sons do not intend to purchase Esther and Marvin's life estates and that there is no plan to sell the three parcels of farmland.

Esther appealed the results of the asset evaluation to the commissioner of human services, challenging the inclusion of the life-estate interests. A human-services judge held an evidentiary hearing and issued a written order, adopted by the commissioner, concluding that the life-estate interests are non-excluded assets under state and federal law. The order explained that, despite being assets under state and federal law, the life-estate interests would not count toward Esther's asset limit for MA-LTC eligibility—when that determination was eventually made—because of an "exemption" in Minn. Stat. § 256B.056, subd. 4a, for life estates. The commissioner affirmed the county's asset evaluation and remanded for further action on Esther's application.

On remand, the county determined that *Esther's* life-estate interests were not available assets for purposes of determining eligibility, but that *Marvin's* life-estate interests in the same parcels were available assets. Because, after deducting the maximum community-spouse asset allowance, the value of available assets exceeded statutory limits, the county determined that Esther was ineligible for MA-LTC benefits.

Esther appealed the ineligibility determination to the commissioner of human services, asserting that the county improperly considered the value of Marvin's life-estate interests in determining her eligibility. A second human-services judge held an evidentiary hearing and issued a written order, adopted by the commissioner, implicitly concluding that under Minn. Stat. § 256B.056, subd. 4a, Marvin's life-estate interests were correctly treated differently than Esther's and, therefore, counted toward Esther's asset limit for MA-

LTC eligibility. The commissioner therefore affirmed the county's determination of ineligibility.

Esther appealed the commissioner's decision to the district court pursuant to Minn. Stat. § 256.045, subd. 7 (2018). The commissioner elected to become a party to the action, and the district court granted permission to the National Academy of Elder Law Attorneys, Minnesota Chapter, to file an amicus brief. After a hearing, the district court reversed the commissioner's denial of Esther's application for MA-LTC benefits, concluding that the unambiguous language of Minn. Stat. § 256B.056, subd. 4a, provides that Marvin's life-estate interests are deemed not salable and are therefore not available assets for purposes of determining Esther's eligibility. This appeal follows.[2]

ISSUE

Under Minn. Stat. § 256B.056, subd. 4a, is a community spouse's non-homestead life-estate interest, which the owner of the remainder interest does not intend to purchase, and the community spouse does not sell, considered available to the institutionalized spouse for purposes of determining eligibility for MA-LTC benefits?

[2] The day before oral argument, Esther's counsel notified this court of Esther's death and the substitution of Larry Schmalz as respondent in this appeal. *See* Minn. R. Civ. App. P. 143.02 (providing for substitution of "legal representative or successor in interest" of deceased party based on affidavit). No party argues that this appeal is moot as a result of Esther's death. Because it is unclear whether reimbursement for any MA-LTC benefits may be sought in the event of reversal, we conclude that the appeal is not moot. Throughout this opinion, we continue to refer to Esther as the respondent.

ANALYSIS

Because judicial review is authorized by Minn. Stat. § 256.045 (2018), we review the commissioner's order independently, giving no deference to the district court's review. *Zahler v. Minn. Dep't of Human Servs.*, 624 N.W.2d 297, 301 (Minn. App. 2001), *review denied* (Minn. June 19, 2001). We may affirm the decision of the agency or remand the case for further proceedings; or this court may reverse or modify the decision "if the substantial rights of the petitioners may have been prejudiced" by an error of law. Minn. Stat. § 14.69(d) (2018).

The commissioner asserts that the district court erred in its interpretation of Minn. Stat. § 256B.056, subd. 4a. This appeal turns on the meaning of the word "individual" in the first sentence of the subdivision.

> For purposes of verification, an individual is not required to make a good faith effort to sell a life estate that is not excluded under subdivision 2 and the life estate shall be deemed not salable unless the owner of the remainder interest intends to purchase the life estate, or the owner of the life estate and the owner of the remainder sell the entire property. This subdivision applies only for the purpose of determining eligibility for medical assistance, and does not apply to the valuation of assets owned by either the institutionalized spouse or the community spouse under section 256B.059, subdivision 2.

Minn. Stat. § 256B.056, subd. 4a.

On matters of statutory interpretation, we need not defer to the agency's analysis or expertise. *St. Otto's Home v. Minn. Dep't of Human Servs.*, 437 N.W.2d 35, 39-40 (Minn. 1989). "The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2018). "If the

Legislature's intent is clear from the unambiguous language of the statute," we apply the plain meaning of a statutory provision. *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 716-17 (Minn. 2014). When interpreting a statute, "we construe technical words and phrases according to [their] special meaning and other words and phrases according to their common and approved usage." *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016) (alteration in original) (quotations omitted); *see also* Minn. Stat. § 645.08(1) (2018). "We construe statutes to effect their essential purpose but will not disregard a statute's clear language to pursue the spirit of the law." *Lee v. Fresenius Med. Care, Inc.*, 741 N.W.2d 117, 123 (Minn. 2007). To determine whether a statute's meaning is plain, we interpret the statute to avoid conflicting interpretations and "to give effect to all of its provisions." *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). Thus, "it is sometimes necessary to analyze [a] provision in the context of surrounding sections." *Id.* at 278.

Both parties state that Minn. Stat. § 256B.056, subd. 4a, is unambiguous, but they disagree about the meaning of "individual." The commissioner contends that the word "individual" means "medical-assistance applicant" (here the institutionalized spouse), and does not include "community spouse." In other words, the commissioner argues that, under subdivision 4a, Esther's life-estate interests are deemed not salable and therefore are not available assets for purposes of eligibility, but Marvin's life-estate interests are available assets for purposes of Esther's eligibility.[3] Esther argues that "individual" includes both

[3] The commissioner acknowledges that, in prior cases, it has taken the position that life-estate interests of *both* the medical-assistance applicant and the community spouse are

the institutionalized spouse and the community spouse. Based on the plain language of Minn. Stat. § 256B.056, subd. 4a, we agree with Esther.

"Individual" is not a technical word or phrase. Thus, we construe it according to its "common and approved usage." *Cocchiarella*, 884 N.W.2d at 624 (quotation omitted); *see also* Minn. Stat. § 645.08(1). "Individual" is defined as "[o]f or relating to an individual, especially a single human" or "[b]y or for one person." *The American Heritage Dictionary of the English Language* 895 (5th ed. 2011). Based upon its common usage, the word "individual" in subdivision 4a does not refer specifically to an institutionalized spouse, but rather to any owner of a life estate who is relevant to an eligibility determination. The use of "individual" in subdivision 4a in addition to "institutionalized spouse" and "community spouse" confirms that "individual" is not used as a synonym for "institutionalized spouse." We agree with the district court that if the legislature had intended to refer only to the institutionalized spouse, or applicant, in the first sentence of subdivision 4a, it would have used more specific terms, as it does in the second sentence of the subdivision.

The commissioner contends that, because the focus of Minn. Stat. § 256B.056 (2018) is eligibility, construing the word "individual" in subdivision 4a to mean the medical-assistance applicant is reasonable. But as this appeal illustrates, the applicant's assets are not the assets at issue in an eligibility determination. And in other subdivisions

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considered unavailable. The commissioner's counsel stated at oral argument that the commissioner's earlier, non-precedential determinations were wrongly decided. We note our concern that the commissioner's conflicting interpretations may hamper the efforts of Minnesota families to engage in planning for long-term care and county agencies to process applications.

of Minn. Stat. § 256B.056, the legislature has not used "individual" to refer exclusively to the applicant. In subdivision 2, the term "recipient" (not "individual") is used to refer to a person receiving medical assistance, while "individuals" refers to "the spouse," "a child under age 21," "a child of any age," "a sibling who has equity interest in the home," or "a child of any age or a grandchild of any age." Minn. Stat. § 256B.056, subd. 2. And subdivision 3c refers to "an *eligible* individual or family." Minn. Stat. § 256B.056, subd. 3c (emphasis added). These broader uses are inconsistent with the commissioner's argument that "individual" in Minn. Stat. § 256B.056, subd. 4a, can only refer to a medical-assistance applicant or institutionalized spouse. Reading the statute as a whole, we can only conclude that the term "individual" does not refer solely to the institutionalized spouse.

The commissioner also argues that interpreting "individual" in subdivision 4a to include the community spouse would result in the second sentence of that subdivision being superfluous. We disagree. The second sentence of subdivision 4a distinguishes between determining what assets exist and whether those assets are considered in determining eligibility. The commissioner does not dispute that, although Esther's life-estate interests are assets under Minn. Stat. § 256B.059 (2018), they are deemed not salable, and therefore not considered available assets for purposes of determining eligibility under Minn. Stat. § 256B.056, subd. 4a. That Marvin's life-estate interests would similarly be assets under one statute but not considered available assets for purposes of eligibility under a different statute does not make the language superfluous. It simply distinguishes the different

treatment of assets under different statutory provisions. Nothing about our interpretation makes that language superfluous.

The commissioner also makes the policy argument that interpreting "individual" to include "community spouse" would allow a community spouse to retain an unlimited amount of real property while taxpayers fund MA-LTC benefits for the institutionalized spouse. The commissioner argues that this result is inconsistent with the purposes of 42 U.S.C. § 1396r-5(c)(2), (f)(2) (2012). Even if we were to assume that the commissioner has correctly articulated the legislative policy underlying related statutes and the practical effect of our interpretation of subdivision 4a, we may not "disregard a statute's clear language to pursue the spirit of the law." *Lee*, 741 N.W.2d at 123.

Finally, the commissioner contends that the second sentence of subdivision 4a was added in 2008 to clarify that the first sentence applies only to medical-assistance applicants. But because the word "individual" was also added in the 2008 amendment, we are not persuaded by this reasoning.[4] 2008 Minn. Laws. ch. 326, art. 1, § 11, at 1272. As discussed above, the use of the term "individual" in this context persuades us that the legislature did not intend to limit the reach of the subdivision to medical-assistance applicants only.

D E C I S I O N

The unambiguous language of Minn. Stat. § 256B.056, subd. 4a, provides that "individual" refers to a community spouse as well as an institutionalized spouse. The life

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[4] Prior to the 2008 amendment, subdivision 4a read: "For purposes of verification, the value of a life estate shall be considered not salable unless the owner of the remainder interest intends to purchase the life estate, or the owner of the life estate and the owner of the remainder sell the entire property." Minn. Stat. § 256B.056, subd. 4a (2006).

estate of a community spouse is therefore deemed not salable—barring an intent to sell—and is therefore not available to the institutionalized spouse for purposes of determining eligibility. The commissioner erred in determining that Marvin's life-estate interests assets were available to Esther when determining Esther's eligibility for MA-LTC benefits. Accordingly, the district court properly reversed the commissioner's order.

Affirmed.