STATE OF MINNESOTA

IN SUPREME COURT

A19-0853

Court of Appeals

Chutich, J.
Took no part, Anderson, J.

Robert Pfoser, as special administrator of the Estate of David Pfoser,

Respondent,

vs.

Filed: January 20, 2021
Office of Appellate Courts

Jodi Harpstead, Commissioner Minnesota Department of Human Services,

Appellant,

and

Dakota County Human Services,

Respondent Below.

Laurie A. Hanson, Long, Reher, Hanson & Price, P.A., Minneapolis, Minnesota, for respondent.

Keith Ellison, Attorney General, Michael N. Leonard, Assistant Attorney General, Saint Paul, Minnesota, for appellant.

Margaret M. Grathwol, Chestnut Cambronne PA, Minneapolis, Minnesota, for amicus curiae Minnesota Chapter of the National Academy of Elder Law Attorneys.

Ron M. Landsman, Landsman Law Group, Rockville, Maryland, for amicus curiae National Academy of Elder Law Attorneys.

Brenna M. Galvin, Maser, Amundson & Boggio, P.A., Richfield, Minnesota; and

David L. Shaltz, Chalgian & Tripp Law Offices, East Lansing, Michigan, for amicus curiae Special Needs Alliance.

S Y L L A B U S

A disabled recipient of Medical Assistance for Long-Term Care benefits who is age 65 or older is not subject to a penalty for transferring assets into a pooled special-needs trust when he made a satisfactory showing that he intended to receive "valuable consideration" under Minnesota Statutes section 256B.0595, subdivision 4(a)(4) (2020).

Affirmed.

O P I N I O N

CHUTICH, Justice.

This case requires us to decide whether the Commissioner of the Minnesota Department of Human Services correctly imposed a transfer penalty on David Pfoser, a disabled Medicaid recipient who resided in a long-term care facility, after he transferred, at age 65, partial proceeds from the sale of a house into a pooled special-needs trust. State and federal law impose a penalty on recipients of Medical Assistance for Long-Term Care benefits if they transfer assets for less than fair market value. Minn. Stat. § 256B.0595 (2020); 42 U.S.C. § 1396p(c)(1)(A). But no penalty may be imposed if the recipient makes a satisfactory showing that he "intended to dispose of the assets either at fair market value or for other valuable consideration." Minn. Stat. § 256B.0595, subd. 4(a)(4); *accord* 42 U.S.C. § 1396p(c)(2)(C)(i). The district court reversed the transfer penalty, ruling that Pfoser received adequate compensation. The court of appeals affirmed the district court,

concluding that the Commissioner's decision was legally erroneous, arbitrary and capricious, and unsupported by substantial evidence. Because we conclude that Pfoser made a satisfactory showing that he intended to receive valuable consideration for his transfer of assets, we now affirm the decision of the court of appeals.

FACTS

David Pfoser had Parkinson's disease and other mental and physical disabilities.[1] Following an injury in 2014, Pfoser moved into a long-term care facility and applied for Medical Assistance for Long-Term Care benefits, which is part of Minnesota's Medicaid program. Fiduciary Services of Minnesota, Inc., served as Pfoser's guardian and conservator.[2]

In 2016, Pfoser's siblings sold the home that Pfoser had been living in, which had been their parents' home, when it was clear that he would not be able to return there. Pfoser's share of the proceeds was $28,010.

In 2017, Pfoser petitioned the district court to transfer the proceeds into a pooled special-needs trust operated by the non-profit Lutheran Social Service of Minnesota (Lutheran Social Service). A pooled special-needs trust is a trust funded by the assets of disabled beneficiaries, with individual sub-accounts, to pay for Medicaid-ineligible goods and services that will improve the quality of the beneficiaries' lives. *Ctr. for Special Needs*

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[1] Pfoser died while his appeal was pending in the court of appeals. The appeal proceeded with Pfoser's brother, Robert Pfoser, named as special administrator of the estate.

[2] For simplicity, the acts of Fiduciary Services of Minnesota on behalf of Pfoser are referred to as the acts of Pfoser.

Tr. Admin., Inc. v. Olson, 676 F.3d 688, 695 (8th Cir. 2012). "Pooled special needs trusts allow disabled individuals with relatively small amounts of money to pool their resources for investment and management purposes." *Me. Pooled Disability Tr. v. Hamilton*, 927 F.3d 52, 54 (1st Cir. 2019).

The district court granted Pfoser's petition for permission to transfer the funds. Pfoser and Lutheran Social Service executed two agreements, a joinder agreement to enroll Pfoser in the trust, and a standard pooled trust agreement (Trust Agreement) that contained additional terms and conditions. Pfoser agreed to transfer $28,010 into a sub-account of the trust to be administered solely for his benefit according to the terms of the Trust Agreement, subject to a $1,000 enrollment fee and certain other management fees owed to Lutheran Social Service.

The Trust Agreement named Lutheran Social Service as trustee and required that trust assets be "managed, invested, and disbursed to promote the comfort and well-being of each Beneficiary." All disbursements from the trust were limited to the "sole and absolute discretion" of Lutheran Social Service as trustee to make distributions as "necessary or advisable to provide for the supplemental care or supplemental needs of the beneficiary." Such needs could include medical, dental, and diagnostic work; supplemental nursing care; and expenditures for travel or a personal care attendant, which are not covered by Medicaid.

In the Trust Agreement, Pfoser acknowledged that he had no "further interest, rights in, or control over" the funds and that Lutheran Social Service had no obligation to support him. The trust was irrevocable. Notably, the Trust Agreement also provided that up to 90

percent of any funds remaining in the sub-account at the time of Pfoser's death must be paid to the State to reimburse the Medical Assistance program for the costs paid on behalf of Pfoser. Lutheran Social Service would retain the other 10 percent in a charitable trust for the benefit of indigent pooled trust beneficiaries who had exhausted the funds in their sub-accounts. By enrolling in the trust, Pfoser would be eligible to receive benefits from the charitable trust if he exhausted the funds in his sub-account.

In accordance with the agreements, Pfoser transferred the funds, which were credited to his sub-account. He was 65 years old at the time of the transfer.

Two months later, Dakota County Human Services (Dakota County) notified Pfoser that it was investigating whether the establishment of his trust sub-account may have been an improper transfer under the statutes governing Medical Assistance for Long-Term Care. Under those statutes, a recipient "may not give away, sell, or dispose of" any asset for less than fair market value. Minn. Stat. § 256B.0595, subd. 1(a); *accord* 42 U.S.C. § 1396p(c)(1)(A). But no penalty may be imposed if the recipient makes a satisfactory showing that he "intended to dispose of the assets either at fair market value or for other valuable consideration." Minn. Stat. § 256B.0595, subd. 4(a)(4); *accord* 42 U.S.C. § 1396p(c)(2)(C)(i). Dakota County ultimately concluded that Pfoser improperly transferred assets. It assessed a transfer penalty of 3.94 months of ineligibility for Medical Assistance for Long-Term Care benefits.

Pfoser appealed the penalty, and a hearing was held before a human services judge. Pfoser claimed that he had received fair market value for the transfer in the form of future goods and services that the trust would provide. In support of his position, Pfoser submitted

copies of the joinder agreement and Trust Agreement. He also submitted an affidavit by the director of the pooled trusts operated by Lutheran Social Service, which included an assessment of the fair market value of Pfoser's sub-account.

In her affidavit, the director stated that Lutheran Social Service operates two pooled trusts containing about 420 sub-accounts. The sub-accounts of the trust in which Pfoser participated are for clients who are disabled as defined by the Social Security Administration. Although the trust is discretionary, the director attested that Lutheran Social Service views its discretion to be limited by contractual and fiduciary obligations to pay for items or services for beneficiaries "as long as the expenditure promotes the comfort and well-being of the beneficiaries." According to the director, denying a reasonable request would be in bad faith and a breach of contract.

The fair-market-value assessment of Pfoser's sub-account estimated that his sub-account would be depleted in less than 2 years. This assessment reflected specific one-time expenditures for expensive items like an adaptive recliner, equipment for his wheelchair, and restorative dental work, which are not covered by Medicaid. It also budgeted for annual expenses like STEM activity boxes,[3] over-the-counter medications not covered by Medical Assistance, wheelchair cushions, household goods and personal expenses, and fees for guardian services. The assessment also calculated Pfoser's life expectancy at 14.86 years.

[3] STEM boxes contain activities in Science, Technology, Engineering and Math that are designed to address Pfoser's symptoms of Parkinson's disease by encouraging him to engage his brain and use his motor skills.

Dakota County did not present any evidence in response to Pfoser's expected expenditures and fair-market-value assessment. At the hearing, the county financial worker assigned to Pfoser's case testified that, according to the policy of the Minnesota Department of Human Services, "the addition to a pool[ed] trust by a beneficiary . . . after the beneficiary . . . reaches age 65 is evaluated as an uncompensated transfer." She also testified, "And that's where I stopped with my calculation," after determining that Pfoser was age 65 at the time of the transfer.

The human services judge found in favor of Dakota County. Because Pfoser had transferred the cash into an irrevocable trust from which any distributions were discretionary, the judge concluded that no "reasonable seller/buyer or objective observer" would consider this exchange to be a transfer for fair market value. Accordingly, the judge found that Pfoser did not receive "adequate compensation or fair market value" at the time the transfer was made. The judge also found that there was insufficient evidence of Pfoser's intent to receive fair market value under an existing penalty exception. The judge therefore recommended that the Commissioner of the Department of Human Services affirm the penalty. The Commissioner adopted the recommendation without change.

Pfoser appealed the agency decision to the district court. The district court reversed, concluding that Pfoser received "adequate compensation" in the form of his vested equitable interest in the trust assets.

The Commissioner appealed, and the court of appeals affirmed the district court's decision. *Pfoser v. Harpstead*, 939 N.W.2d 298 (Minn. App. 2020). The court of appeals

determined that the Commissioner's decision was "legally erroneous, arbitrary and capricious, and unsupported by substantial evidence." *Id.* at 320.

We granted the Commissioner's petition for review.

ANALYSIS

The issue before us is whether the Commissioner properly imposed a 3.94 month penalty based on her findings that Pfoser did not receive adequate compensation or fair market value when he transferred $28,010 into the pooled special-needs trust and that a penalty exception did not apply.[4]

Judicial review of a decision by the Commissioner of Human Services is authorized by Minnesota Statutes section 256.045 (2020). We may reverse or modify an agency decision if the decision is affected by an error of law, is arbitrary and capricious, or is unsupported by substantial evidence. Minn. Stat. § 14.69 (2020). Whether substantial evidence exists is a question of law. *See In re Restorff*, 932 N.W.2d 12, 18 (Minn. 2019).

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[4] Because Pfoser died while his case was pending in the court of appeals, a preliminary question of mootness must be addressed. Although neither party has argued that the appeal is moot, mootness is a jurisdictional issue that we may raise on our own. *In re Schmalz*, 945 N.W.2d 46, 49 n.3 (Minn. 2020) (explaining that "the existence of a justiciable controversy is essential" to the exercise of the court's jurisdiction).

Generally, "[a]n appeal should be dismissed as moot when a decision on the merits is no longer necessary or an award of effective relief is no longer possible." *Dean v. City of Winona*, 868 N.W.2d 1, 5 (Minn. 2015). But we may decide a case when an issue, although technically moot, is functionally justiciable and presents an important question of statewide significance. *In re Guardianship of Tschumy*, 853 N.W.2d 728, 738 (Minn. 2014). The issue here is functionally justiciable because the record is fully developed, the issue involves a matter of statutory interpretation, and the issue has been adequately briefed. *See Schmalz*, 945 N.W.2d at 49 n.3. The question has statewide significance because it affects disabled persons age 65 or older who wish to transfer assets into a pooled special-needs trust without incurring a penalty.

We determine "whether the agency has adequately explained how it derived its conclusion and whether that conclusion is reasonable on the basis of the record." *Minn. Power & Light Co. v. Minn. Pub. Utils. Comm'n*, 342 N.W.2d 324, 330 (Minn. 1983). We examine "the agency's decision independently and need not accord any deference to the lower courts' review." *Estate of Atkinson v. Minn. Dep't of Hum. Servs.*, 564 N.W.2d 209, 213 (Minn. 1997).

A.

This appeal concerns the consequences of Pfoser's transfer of funds into the pooled special-needs trust in determining his financial eligibility for Medicaid benefits. We begin with an overview of the Medicaid program and the asset-transfer rules. Medicaid is "a cooperative federal-state program." *In re Schmalz*, 945 N.W.2d 46, 50 (Minn. 2020). Known as Medical Assistance in Minnesota, the program "is designed to provide medical assistance to individuals whose income and resources are not sufficient to meet the costs of their necessary care and services." *Estate of Atkinson*, 564 N.W.2d at 210; *see* Minn. Stat. §§ 256B.01–.85 (2020). The Minnesota Department of Human Services (the Department) provides support for long-term care through the Medical Assistance for Long-Term Care program. *See* Minn. Stat. §§ 256B.056 (governing eligibility for Medical Assistance, including long-term care benefits), .0595 (governing transfers of assets by recipients of long-term care benefits), .0625, subd. 2 (providing coverage for skilled and intermediate nursing care services).

Persons qualify for Medical Assistance if they are blind, disabled, or age 65 or older. Minn. Stat. § 256B.055, subd. 7. Because Medicaid is intended to be the payor of last

resort, *In re Estate of Barg*, 752 N.W.2d 52, 58 (Minn. 2008), persons must be financially eligible for Medical Assistance by having available assets valued below a statutory threshold amount. Minn. Stat. § 256B.056, subd. 3(a); 42 U.S.C. § 1396a(a)(17). Subject to certain exceptions, "a person must not own individually more than $3,000 in assets." Minn. Stat. § 256B.056, subd. 3(a).

Minnesota's Medicaid program must comply with federal law. *See* 42 U.S.C. §§ 1396–1396t. Failure to comply may result in a reduction in or loss of federal funds. 42 U.S.C. § 1396c; *In re Estate of Turner*, 391 N.W.2d 767, 769 (Minn. 1986). At issue here are the rules governing the transfer of assets into pooled special-needs trusts by recipients of Medical Assistance for Long-Term Care benefits. *See* Minn. Stat. § 256B.0595; 42 U.S.C. § 1396p.

A disabled person of any age can establish an account in a pooled special-needs trust. *See* Minn. Stat. § 256B.056, subd. 3b(c) (defining a pooled trust in accordance with 42 U.S.C. § 1396p(d)(4)(C)). A beneficiary's interest in a pooled trust is not considered an available asset for determining Medical Assistance eligibility if certain requirements are met. Minn. Stat. § 256B.056, subd. 3b(d); 42 U.S.C. § 1396p(d)(4)(C). One requirement in Minnesota is that the trust contain a repayment obligation entitling the Department to any assets "remaining in the beneficiary's trust account" upon the beneficiary's death "up to the amount of medical assistance benefits paid on behalf of the beneficiary." Minn. Stat. § 256B.056, subd. 3b(d); *accord* 42 U.S.C. § 1396p(d)(4)(C). There is no dispute that the trust established by Lutheran Social Service meets the requirements of the statutes.

Although the assets *in* an exempt trust are not considered available for determining whether a person is eligible for benefits, transfers *into* the trust may be penalized with a period of ineligibility for benefits. Minn. Stat. § 256B.0595, subd. 1(j). A person residing in a long-term care facility may not "give away, sell, or dispose of" assets "for less than fair market value" when done "for the purpose of establishing or maintaining medical assistance eligibility." Minn. Stat. § 256B.0595, subd. 1(a); *accord* 42 U.S.C. § 1396p(c)(1)(A). A person who transfers assets for less than fair market value is generally subject to a period of ineligibility for Medical Assistance benefits. Minn. Stat. § 256B.0595, subd. 2(a); 42 U.S.C. § 1396p(c)(1)(A). This sanction is known as a "transfer penalty."

Several exceptions to the transfer penalty exist and preclude application of any penalty. For example, transfers into pooled special-needs trusts for the benefit of a disabled person *under* age 65 are automatically exempt from a transfer penalty. Minn. Stat. § 256B.0595, subd. 4(a)(6); *accord* 42 U.S.C. § 1396p(c)(2)(B)(iv). But a transfer for the benefit of a disabled person *age 65 or older* is not exempt, unless another exception applies.

As relevant here, a person of any age, including those age 65 or older, can avoid a transfer penalty if the person makes a "satisfactory showing" that the person "intended to dispose of the assets either at fair market value or for other valuable consideration" (the intent exception).[5] Minn. Stat. § 256B.0595, subd. 4(a)(4); *accord* 42 U.S.C. § 1396p(c)(2)(C)(i). Because Pfoser was 65 years old when he transferred $28,010 into

[5] Because other transfer exceptions exist in the statute, we call this exception the "intent exception."

the trust, he is subject to a transfer penalty unless he makes one of two showings: that he *actually* received fair market value for the transfer, or that he *intended* to receive fair market value or other valuable consideration under the intent exception.[6] *See* Minn. Stat. § 256B.0595, subds. 1(a), 4(a)(4).

B.

To determine whether Pfoser met the intent exception, we consider the meaning of "valuable consideration" under Minnesota Statutes section 256B.0595, subdivision 4(a)(4).[7] The statute does not define "valuable consideration." The court of appeals

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[6] Amici curiae National Academy of Elder Law Attorneys and its corresponding Minnesota Chapter argue that the rules governing the transfer of assets in the federal statute do not apply to pooled special-needs trusts because the federal statute contains separate provisions that specifically address the treatment of trusts. *Compare* 42 U.S.C. § 1396p(c) (addressing certain transfers of assets), *with* 42 U.S.C. § 1396p(d) (addressing the treatment of trust amounts). Although the argument of the amici raises serious questions about how the federal statute should be interpreted, *see Cox v. Iowa Dep't of Hum. Servs.*, 920 N.W.2d 545, 560–63 (Iowa 2018) (Appel, J., dissenting), we typically do not reach issues raised only by amici, *Kline v. Berg Drywall, Inc.*, 685 N.W.2d 12, 23 n.9 (Minn. 2004). Furthermore, the Minnesota statute expressly states that the transfer rules apply to transfers into pooled trusts. Minn. Stat. § 256B.0595, subd. 1(j).

[7] We first address a preliminary question of forfeiture. Although her petition for review did not explicitly raise a forfeiture issue, the Commissioner now contends that Pfoser never argued in his agency appeal that he intended to receive "valuable consideration," and so forfeited the argument.

Pfoser did not specifically contend in his agency appeal that he received valuable consideration, but the Commissioner determined that Pfoser failed to prove that he had received "adequate compensation or fair market value." "Valuable consideration" is closely related to "adequate compensation." The statute does not use the term "adequate compensation"; it uses "fair market value or other valuable consideration." Minn. Stat. § 256B.0595, subd. 4(a)(4). Notably, the Commissioner's own policy manual uses the term "adequate compensation" rather than fair market value or valuable consideration. *See* Minn. Dep't of Hum. Servs., *Minnesota Health Care Programs Eligibility Policy Manual* § 2.4.1.3.4 (Jan. 1, 2019) (stating that a transfer beneficiary over age 64 must "provide

applied the definition in the *State Medicaid Manual* and held that Pfoser satisfied it. *Pfoser v. Harpstead*, 939 N.W.2d at 314, 318; *see* Ctrs. for Medicare & Medicaid Servs., *State Medicaid Manual* § 3258.1.A.2 (defining valuable consideration as "some act, object, service, or other benefit which has a tangible and/or intrinsic value to the individual that is roughly equivalent to or greater than the value of the transferred asset"). The Commissioner argues that valuable consideration unambiguously means something of equivalent cash value to the transferred asset, or alternatively, that this court should defer to agency interpretations, including the *State Medicaid Manual*. Pfoser responds that the transfer was adequately compensated under any standard.

We review matters of statutory interpretation de novo. *In re Schmalz*, 945 N.W.2d 46, 49 n.3 (Minn. 2020). The goal of statutory interpretation is to effectuate the intent of the Legislature. Minn. Stat. § 645.16 (2020).

The first step is to determine whether the language of the statute is ambiguous. *Olson v. Lesch*, 943 N.W.2d 648, 656–57 (Minn. 2020). "A statute is unambiguous if it has only one reasonable interpretation." *In re Welfare of Children of J.D.T.*, 946 N.W.2d 321, 327 (Minn. 2020). When interpreting a statute, we read "words and phrases . . . according to rules of grammar and according to their common and approved usage." Minn.

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proof that adequate compensation was received"). Finally, Pfoser's position is that all three standards are essentially the same.

Because the relevant legal standards are closely related, the underlying facts are not in dispute, and the parties have had an opportunity to fully brief the issue, we address the valuable-consideration standard on the merits. *See State v. Hill*, 871 N.W.2d 900, 905 n.4 (Minn. 2015) (reaching an argument not raised below when the question involved a purely legal issue, the State had briefed the issue, and consideration of the issue did not prejudice the State).

Stat. § 645.08(1) (2020). When a statute does not define a term, we may look to lay dictionary definitions and, where appropriate, to legal definitions to determine the plain meaning of the term. *See Getz v. Peace*, 934 N.W.2d 347, 354–55 (Minn. 2018) (considering both lay and legal definitions when a phrase frequently appeared as a legal phrase in statutes).

We also read "[m]ultiple parts of a statute . . . together so as to ascertain whether the statute is ambiguous." *Christianson v. Henke*, 831 N.W.2d 532, 537 (Minn. 2013). "Whenever it is possible, no word, phrase, or sentence should be deemed superfluous, void, or insignificant." *Amaral v. Saint Cloud Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999).

We have stated that " 'valuable consideration, in the sense of the law, may consist either of some right, interest, profit, or benefit accruing to the one party, or some forbearance, detriment, loss, or responsibility given, suffered, or undertaken by the other.' " *Ketterer v. Indep. Sch. Dist. No. 1*, 79 N.W.2d 428, 436 (Minn. 1956) (quoting 44 *Words and Phrases*, *Valuable Consideration* 25). Technical and lay dictionaries offer similarly broad definitions. *See Valuable Consideration*, *Black's Law Dictionary* (11th ed. 2019) ("[C]onsideration that either confers a pecuniarily measurable benefit on one party or imposes a pecuniarily measurable detriment on the other."); *Valuable Consideration*, *Webster's Third International Dictionary Unabridged* 2530 (2002) ("An equivalent or compensation having value that is given for something (as money, marriage, services) acquired or promised and that may consist either in some right, interest, profit, or benefit accruing to one party or some responsibility, forbearance, detriment, or loss exercised by or falling upon the other party . . . .").

The Commissioner's position that the benefit received must be equal to the value of the transferred asset is not reasonable in context. The statute allows for a showing under either the fair-market-value standard "or" the valuable-consideration standard. Minn. Stat. § 256.0595, subd. 4(a)(4); *see A.A.A. v. Minn. Dep't of Hum. Servs.*, 832 N.W.2d 816, 829 (Minn. 2013) ("[W]hen the disjunctive 'or' is used, only one of the listed factual situations needs to be present in order for the provisions to be satisfied."). These standards cannot be the same because the statute distinguishes fair market value from "other" valuable consideration.

The Commissioner distinguishes fair market value from other valuable consideration in section 256.0595, subdivision 4(a)(4), based on the *form* of the compensation. She equates fair market value to cash and valuable consideration to something other than cash but of "equivalent market value." This premise is incorrect because fair market value and valuable consideration can take the same form. For instance, like valuable consideration, which may consist of "some right, interest, profit, or benefit," *see Ketterer*, 79 N.W.2d at 436, fair market value need not be money. Dictionaries define fair market value in relation to "price." *See, e.g.*, *Fair Market Value*, *Black's Law Dictionary* (11th ed. 2019) ("The price that a seller is willing to accept and a buyer is willing to pay on the open market and in an arm's-length transaction . . . ."); *Fair Market Value*, *The American Heritage Dictionary* 635 (5th ed. 2011) ("The price, as of a commodity or service, at which both buyers and sellers agree to do business.").

"Price," in turn, can mean money or other goods. *See Price*, *Black's Law Dictionary* (11th ed. 2019) ("The amount of money or other consideration asked for or given in

exchange for something else; the cost at which something is bought or sold."); *Price*, *The American Heritage Dictionary* 1397 (5th ed. 2011) ("The amount as of money or goods, asked for or given in exchange for something else."). Fair market value and valuable consideration can therefore each take the form of goods and services. Consequently, the *form* of compensation—cash versus non-cash—cannot be the critical distinction.[8]

We conclude instead that the relevant distinction is the *measure* of compensation: "valuable consideration" under section 256.0595, subdivision 4(a)(4), is compensation that is *approximately* equal to the value of the transferred asset, but may be something less than fair market value. Interpreting valuable consideration to mean something *equal* to fair market value eliminates this distinction and makes the valuable-consideration standard meaningless. This we cannot do. *See Amaral*, 598 N.W.2d at 384 ("[N]o word, phrase, or sentence should be deemed superfluous . . . .").

In context, then, "valuable consideration" under section 256.0595, subdivision 4(a)(4), unambiguously means compensation that is approximately equal to the value of the transferred asset. This interpretation reflects that valuable consideration is distinct from, and a less stringent standard than, fair market value. It also preserves the force of the fair-market-value requirement by requiring a penalty when an asset is transferred for

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[8] The Commissioner cites several federal statutes to support her position that fair market value essentially means cash. *See, e.g.*, 11 U.S.C. § 101 ("The term 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of *money or other valuable consideration* . . . ." (emphasis added)). Notably, in all of her examples, Congress chose to use the term "money," not "fair market value," to contrast with "other valuable consideration." Accordingly, these examples do not restrict the broader meaning of fair market value cited above.

something of substantially less value. *See* Minn. Stat. § 256B.0595, subd. 1(a) (prohibiting transfers for less than fair market value); 42 U.S.C. § 1396p(c)(1)(A).

The Commissioner would add another element to the plain meaning of "valuable consideration" in section 256.0595, subdivision 4(a)(4). She asserts that valuable consideration includes only assets that are themselves countable for purposes of determining Medical Assistance eligibility. Otherwise, she argues, an "asymmetry" occurs if persons can exchange a countable asset for a non-countable asset while avoiding a penalty and maintaining eligibility for their benefits. Even so, the statute contradicts the Commissioner's position. The statute does not require the compensation received to be itself a countable asset. *See* Minn. Stat. § 256B.0595, subd. 1(c) (applying no penalty to certain payments for personal services).

Accordingly, under the intent exception to the asset-transfer rules, Minn. Stat. § 256.0595, subd. 4(a)(4), we hold that "valuable consideration" means compensation that is approximately equal to the fair market value of the transferred asset.[9]

C.

Having defined "valuable consideration" under Minnesota Statutes section 256B.0595, subdivision 4(a)(4), we now determine whether Pfoser met his burden of showing that he intended to transfer the funds into the pooled special-needs trust for

[9] Because we arrive at our interpretation from the plain meaning of the statute, we do not consider the definition in the *State Medicaid Manual* or other agency statements. *See Staab v. Diocese of St. Cloud*, 813 N.W.2d 68, 73 (Minn. 2012) ("If the words are free of all ambiguity, we apply the statutory language."); *Schwanke v. Minn. Dep't of Admin.*, 851 N.W.2d 591, 594 n.1 (Minn. 2014) (stating that "we owe no deference to an agency's interpretation of an unambiguous statute").

valuable consideration. The court of appeals held that the Commissioner made three legal errors in imposing a transfer penalty: failing to consider whether Pfoser received valuable consideration before, during, or after the transfer; stating her belief that no "reasonable seller/buyer or objective observer" would consider Pfoser's exchange to be adequately compensated; and relying too heavily on the discretionary and irrevocable features of the trust. *Pfoser v. Harpstead*, 939 N.W.2d at 315–18. The court of appeals also concluded that the Commissioner's decision was arbitrary and capricious and unsupported by substantial evidence as a whole. *Id*. at 316, 318. The Commissioner argues that Pfoser's transfer was not adequately compensated because his equitable interest in the pooled special-needs trust is not equal to $28,010 in unrestricted cash. She also contends that future goods and services should not be considered when determining the value of Pfoser's interest and that exempting Pfoser's transfer thwarts the purpose and structure of the Medicaid Act.

We note first that the Commissioner erred legally by requiring Pfoser to offer "*convincing evidence* of intent to receive fair market value." (Emphasis added.) The convincing-evidence standard applies when a person transferring assets seeks to show that the transfer was not "for the purpose of establishing or maintaining medical assistance eligibility." Minn. Stat. § 256B.0595, subd. 1(a). It does not apply to the intent exception in Minn. Stat. § 256B.0595, subd. 4(a)(4). Under the intent exception, Pfoser needed only to make a "satisfactory showing" that he "intended to dispose of the assets" for "valuable consideration." *Id.* That standard requires a lesser showing than a convincing-evidence standard. Accordingly, Pfoser needed to make a satisfactory showing that he intended to

receive compensation that is approximately equal to the $28,010 that he transferred into the trust.

The evidence shows that Pfoser intended to receive approximately $28,010 in the form of his equitable interest in the pooled special-needs trust. Pfoser's sub-account was credited with $28,010, subject to enrollment and management fees, and he became entitled to the professional investment and management of his trust assets. The record also shows that Lutheran Social Service carefully designed a plan to use the funds in Pfoser's trust sub-account (1) solely for his benefit, (2) on necessary and specific goods and services that would not be covered by Medical Assistance but were designed to meet his needs as a resident of a long-term care facility with Parkinson's disease, and (3) over a period of 2 years, well within Pfoser's life expectancy of almost 15 years. Moreover, the record contains no evidence that contests the value of the goods and services that Pfoser intended and expected to receive. Consequently, Pfoser was likely to receive the approximate value of the funds deposited into his sub-account.

The Commissioner cites various authorities to show that transfers into a pooled special-needs trust are not for fair market value. For example, the *State Medicaid Manual* states that, when a person transfers a non-excluded asset into a trust, a "transfer of assets for less than fair market value generally takes place" because "[a]n individual placing an asset in a trust generally gives up ownership of the asset to the trust." Ctrs. for Medicare & Medicaid Servs., *State Medicaid Manual* § 3259.6.G. Similarly, the Commissioner's own agency policy manual states that a transfer into a pooled trust after a disabled person turns 65 is "evaluated as an uncompensated transfer," unless the disabled person can

"provide proof that adequate compensation was received." Minn. Dep't of Hum. Servs., *Minnesota Health Care Programs Eligibility Policy Manual* § 2.4.1.3.4. In addition, the Commissioner cites cases from other states that upheld penalties on similar transfers into trusts because the courts determined that the equitable interests were not equal to the fair market value of unrestricted cash. *See Cox v. Iowa Dep't of Hum. Servs.*, 920 N.W.2d 545 (Ia. 2018); *In re Pooled Advocate Tr.*, 813 N.W.2d 130 (S.D. 2012).

These authorities are not determinative because they apply the fair-market-value standard rather than the valuable-consideration standard, which we conclude is less stringent.[10] Further, the agency statements establish only a *presumption* that a transfer into a pooled trust is not for fair market value—a presumption that a disabled person may rebut with evidence. Given Pfoser's showing, if we were to accept the Commissioner's position

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[10] The cases cited by the Commissioner are legally and factually distinguishable. In the Iowa case, an elderly couple transferred $575,000 into two pooled special-needs trust accounts but, unlike Pfoser, did not provide an affidavit from the trustee stating when, or for what purpose, the funds were likely to be used. *Cox v. Iowa Dep't of Hum. Servs.*, 920 N.W.2d 545, 548 (Ia. 2018). The Iowa Supreme Court held that the transfer was for less than fair market value because, among other factors, "[t]he value of readily available assets is greater than the value of assets that are restricted in a trust for future use." *Id.* at 559. Although the court referenced the intent exception and the valuable-consideration standard, it did not specifically analyze whether the transfer was exempt under that standard. *Id.* at 557, 559.

In the South Dakota case, an elderly couple transferred $115,000 into a pooled special-needs trust. *In re Pooled Advocate Tr.*, 813 N.W.2d 130, 136 (S.D. 2012). The South Dakota Supreme Court concluded that the beneficiaries did not receive fair market value because the trustee had sole discretion over disbursement of the funds and because the beneficiaries had identified "no items or services purchased for them by the trust" that would demonstrate that their interest had "tangible" and "intrinsic" value. *Id.* at 147. The court did not consider whether the couple was exempt from a transfer penalty under the valuable-consideration standard.

that Pfoser had not met his burden, it is unclear whether a disabled person age 65 or over could ever rebut the presumption.

The Commissioner also contends that the value of future goods and services should not be considered because Pfoser did not have a "binding agreement" that allowed him to enforce specific distributions. She asserts that the court of appeals erred by requiring her to consider evidence of "valuable consideration received by the recipient before, during, and after transferring assets to the pooled trust." *Pfoser v. Harpstead*, 939 N.W.2d at 313.

Although the Commissioner is correct that Pfoser could not enforce specific distributions because the trust was discretionary and irrevocable, Pfoser's equitable interest was still legally enforceable under principles of trust law. Under the Minnesota Trust Code, a trustee has a duty to administer a trust "in good faith, in accordance with its terms and purposes and the interests of the beneficiaries." Minn. Stat. § 501C.0801 (2020). The express purpose of the Lutheran Social Service trust was to provide for the "supplemental care and special needs" of the disabled beneficiary, and the Trust Agreement required that the funds "be managed, invested, and disbursed" to provide for Pfoser's supplemental needs. Lutheran Social Service therefore had fiduciary (and contract) obligations to manage the trust to provide for Pfoser's supplemental needs. In addition, Pfoser could enforce his interest through equitable remedies, such as suing to compel Lutheran Social Service to perform its duties, to enjoin it from breaching its duties, or to replace it as trustee. *See* Restatement (Second) of Trusts § 199 (Am. Law Inst. 1959). Consequently, Pfoser had a legally enforceable interest.

Further, the court of appeals did not err in requiring the Commissioner to consider evidence of valuable consideration that Pfoser would receive in the future because the goods and services that Pfoser expected to receive were based on a legally enforceable agreement that existed at the time of the transfer. *Pfoser v. Harpstead*, 939 N.W.2d at 313. Under the statute, a transfer is not penalized merely because the transferor will not receive the full benefit of the compensation until a later point. *See* Minn. Stat. § 256B.0595, subd. 1(f), (h) (exempting the purchase of annuities, promissory notes, and loans, if certain requirements are met); *accord* 42 U.S.C. § 1396p(c)(l)(F), (G), (I). We therefore reject the Commissioner's position that a valuation of Pfoser's interest in the pooled special-needs trust could not consider goods and services that Pfoser anticipated receiving in the near future under the Trust Agreement.

Finally, the Commissioner contends that exempting Pfoser's transfer "subverts the purpose" of the Medicaid Act by permitting him to preserve assets for his own use and providing a "roadmap" for others to follow. She also claims that exempting Pfoser's transfer under the intent exception nullifies the automatic exemption for transfers into a trust established for a beneficiary under age 65. *See* Minn. Stat. § 256B.0595, subd. 4(a)(6); 42 U.S.C. § 1396p(c)(2)(B)(iv).

We acknowledge that Medicaid is intended to be the payor of last resort. *In re Estate of Barg*, 752 N.W.2d 52, 58 (Minn. 2008). Similarly, "[i]t is the public policy of this state that individuals use all available resources to pay for the cost of long-term care services . . . before turning to Minnesota health care program funds, and that trust instruments should not be permitted to shield available resources of an individual." Minn. Stat. § 501C.1206

(2020). But even if we agreed with the Commissioner that exempting Pfoser's transfer would hinder the legislative purpose, we "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).

In any case, we think that the Commissioner's fears are overstated. Pooled special-needs trusts are unlikely to be used to hide great wealth while creating eligibility for Medical Assistance because of the inherent limitations of these trusts: pooled special-needs trusts are available only to disabled persons, Minn. Stat. § 256B.056, subd. 3b(c); the person must give up control of the funds, *id.*; and any unused funds will revert to the State, Minn. Stat. § 256B.056, subd. 3b(d). As a result, those who are likely to benefit through the use of pooled special-needs trusts are those who, like Pfoser, are disabled and have only modest assets that they wish to use for basic care not covered by Medical Assistance. *See Lewis v. Alexander*, 685 F.3d 325, 333 (3d Cir. 2012) (stating that the expenses provided by a special-needs trust are things like "books, television, Internet, travel, and even such necessities as clothing and toiletries," which "would rarely be considered extravagant").

In addition, pooled special-needs trusts do not allow disabled persons to divert and preserve assets for their heirs. *Cf. Miller v. Ibarra*, 746 F. Supp. 19, 34 (D. Colo. 1990) (explaining that Congress tightened the asset-counting rules for trusts in 1986 to "prevent wealthy individuals, otherwise ineligible for Medicaid benefits, from making themselves eligible by creating irrevocable trusts in order to preserve assets for their heirs"); *Lewis*, 685 F.3d at 333 ("Individuals have gained access to taxpayer-funded healthcare while

retaining the benefit of their wealth and the ability to pass that wealth to their heirs. Congress understandably viewed this as an abuse . . . ."). All pooled special-needs trusts, including the trust operated by Lutheran Social Service, must contain a pay-back provision requiring any funds remaining in a sub-account after the beneficiary's death to be used to repay the State for the Medical Assistance benefits received by the beneficiary. Minn. Stat. § 256B.056, subd. 3b(d); *accord* 42 U.S.C. § 1396p(d)(4)(C)(iv).

Lastly, exempting Pfoser's transfer of funds into the pooled special-needs trust does not nullify the automatic exception in Minnesota Statutes section 256B.0595, subdivision 4(a)(6), which exempts "transfers . . . into a trust established for the sole benefit of an individual who is under 65 years of age who is disabled as defined by the Supplemental Security Income program." *Accord* 42 U.S.C. § 1396p(c)(2)(B)(iv). The automatic exception in subdivision 4(a)(6) is just that—automatic. Exempting a disabled person age 65 or older upon a satisfactory showing of the required intent in no way nullifies the benefit of the automatic exception for disabled persons who are under age 65 and need not make an additional showing.

In sum, we conclude that Pfoser has demonstrated that his equitable interest in the pooled special-needs trust was approximately equal to the value of the $28,010 transferred into the trust sub-account. Accordingly, we hold that Pfoser made a satisfactory showing that he intended to receive valuable consideration and was not subject to a transfer penalty. *See* Minn. Stat. § 256B.0595, subd. 4(a)(4); 42 U.S.C. § 1396p(c)(2)(C)(i). We therefore

conclude that substantial evidence does not support the Commissioner's decision to uphold the penalty.[11]

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

ANDERSON, J., took no part in the consideration or decision of this case.

[11] Because we resolve this case under the valuable-consideration standard, we do not consider whether Pfoser intended to receive, or actually received, fair market value. *See* Minn. Stat. § 256B.0595, subd. 4(a)(4) (allowing a showing of the intent to receive fair market value "or" other valuable consideration); *accord* 42 U.S.C. § 1396p(c)(2)(C)(i).