State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
OAL DKT. NO. HMA 18102-25
AGENCY DKT. NO. N/A

A.L.,

Petitioner,

v.

ESSEX COUNTY BOARD OF SOCIAL SERVICES,

Respondent.

Michael Heinemann, Esq., for petitioner (Law Office of Michael Heinemann, PC, attorneys)

Anais Rodriguez, Family Service Worker, and **Teresa Moore**, Family Service Supervisor, for respondent under N.J.A.C. 1:1-5.4(a)(3)

Record Closed: May 7, 2026 Decided: May 27, 2026

BEFORE **MINDY GENSLER**, ALJ:

STATEMENT OF THE CASE

A.L.'s total income, including income in a qualified income trust (QIT), was sufficient to cover the cost of his care when he applied for Medicaid on July 31, 2025. Should QIT income be included when determining eligibility for Medicaid when the total

income exceeds the costs of care? Yes. An individual is ineligible for Medicaid when his or her total income, including QIT income, is higher than the cost of his or her medical care.

PROCEDURAL HISTORY

On July 31, 2025, petitioner, A.L., applied to respondent, the Essex County Board of Social Services (Essex County), for Managed Long-Term Services and Supports (MLTSS) Medicaid benefits.

On September 5, 2025, Essex County denied the application because A.L.'s monthly income exceeded the cost of his care. Thereafter, A.L.'s designated authorized representative from Senior Planning Services appealed the determination and requested a fair hearing.

On October 15, 2025, Essex County transmitted the case to the Office of Administrative Law as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the Office of Administrative Law, N.J.S.A. 52:14F-1 to -23. On March 23, 2026, I held the hearing. On April 13, 2026, the parties submitted post-hearing briefs, which included a copy of the Qualified Income Trust (P-3). I kept the record open to permit Essex County to respond to A.L.'s brief by April 30, 2026, and gave A.L. the opportunity to reply by May 7, 2026, on which date the record was closed.

FINDINGS OF FACT

Based on the testimony provided and my assessment of its credibility, together with the documents the parties submitted and my assessment of their sufficiency, the following **FACTS** are not in dispute:

1. On April 12, 2022, A.L. sold his house for $317,113.75. He gave his son and his daughter $36,842.80 each from the proceeds and transferred annuity

ownership in the amount of $12,153.91 to his son. Together, these transfers total $85,839.51.

2. On September 28, 2023, A.L. began living in a private room at Inglemoor Rehabilitation & Care Center in Livingston, New Jersey.

3. In April 2025, A.L. was moved to a semi-private room at Inglemoor at a cost of $507.80 per day.

4. On April 1, 2025, an annuity was created in the amount of $88,149.15 for A.L., providing for monthly payments from April through September in the amount of $14,699.45.

5. On April 2, 2025, a Qualified Income Trust was created and funded with the annuity.

6. On July 31, 2025, A.L.'s designated authorized representative, Senior Planning Services, submitted a Medicaid application on behalf of A.L. seeking benefits retroactive to April 1, 2025.

7. At the time of his July application, A.L. received a total of $17,216.24 per month, comprised of the following monthly payments: $2,039 in Social Security benefits, $185.55 in pension benefits, $292.24 in a second pension benefit, and $14,699.45 from the annuity.

8. A.L.'s expenses include a secondary insurance policy purchased from Cigna Healthcare in the amount of $2,927.66 semi-annually, which is $487.95 a month.

CONCLUSIONS OF LAW

Medicaid is a federally created, state-implemented program designed to assist those whose income and resources are insufficient to meet the costs of their needed

medical services. 42 U.S.C. § 1396-1; G.C. v. Div. of Med. Assistance & Health Servs., 249 N.J. 20, 26 (2021). New Jersey participates in Medicaid through the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.5. The county social service agencies assist in the administration of the New Jersey Medicaid program by processing applications for Medicaid benefits and determining whether an applicant meets the financial eligibility requirements. N.J.A.C. 10:71-3.15(a).

Consistent with the goal of providing care to needy individuals, the New Jersey Legislature has directed that Medicaid benefits be provided to those "whose resources are determined to be inadequate to enable them to secure quality medical care at their own expense, . . . [and] shall be last resource benefits notwithstanding any provisions contained in contracts, wills, agreements or other instruments." N.J.S.A. 30:4D-2. An applicant has the burden of establishing eligibility for Medicaid. Twp. Pharmacy v. Div. of Med. Assistance & Health Servs., 432 N.J. Super. 273, 281 n.4 (App. Div. 2013). New Jersey will deny an application if the individual's income is above $2,901. Medicaid Commc'n 25-01 (Dec. 24, 2024).

An applicant must thus meet resource and income eligibility standards before the applicant may qualify for the Medicaid program. N.J.A.C. 10:71-4.1 to -5.9. Income eligibility is based on an examination of "all earned and unearned income which has or will be received during the month for which application is made, beginning with the first day of such month." N.J.A.C. 10:71-5.2(b)(1). "All income, whether in cash, or in-kind, shall be considered in the determination of eligibility, unless such income is specifically exempt under the provisions of N.J.A.C. 10:71-5.3." N.J.A.C. 10:71-5.1(b).

In addition, to prevent "individuals with sufficient assets to pay for their own medical care [from] qualify[ing] for Medicaid," anyone who transfers assets for less than fair market value within sixty months of his Medicaid application will be subject to a penalty period that will delay his receipt of Medicaid long-term care services even if he is otherwise financially and clinically eligible. N.M. v. Div. of Med. Assistance & Health Servs., 405 N.J. Super. 353, 362 (App. Div. 2009); 42 U.S.C. § 1396p(c); N.J.A.C. 10:71-4.10. The penalty period begins the later of (1) the first day of the month in which assets have been transferred, (2) the first day of the month after which assets have been

transferred, or (3) the date the individual becomes eligible and would be receiving institutional level of services but for the penalty period. 42 U.S.C. § 1396p(c)(1)(D).

Because of the rising cost of long-term care, New Jersey allows Medicaid applicants to exclude income that is placed in a properly established qualified income trust. Medicaid Commc'n No. 14-15 (Dec. 19, 2014). However, a QIT is designed to "provide medical assistance to persons whose income and resources are insufficient to meet the costs of necessary care and services." Atkins v. Rivera, 477 U.S. 154, 156 (1986). A QIT is also known as a Miller trust and was designed for individuals in nursing homes who had incomes that were "too low to enable them to pay their own nursing home costs, but too high to qualify for Medicaid benefits." Miller v. Ibarra, 746 F. Supp. 19, 20 (D.Colo. 1990). Medicaid benefits will be denied when the individual's income is sufficient to pay the cost of care, unless there are other medical expenses that would leave the individual at a deficit each month. A.D. v. Div. of Med. Assistance & Health Servs., 2016 N.J. AGEN LEXIS 1145 (September 12, 2016).

As an initial matter, there are two issues related to the sale of A.L.'s home. First, the proceeds from the sale of A.L.'s home and A.L.'s gifts to his children in 2022 are resources and could subject A.L. to a transfer penalty if he were otherwise financially and medically eligible for Medicaid. However, this issue is premature, since no transfer penalty was assessed. Second, the QIT must not contain resources such as money from the sale of real or personal property or money from a savings account. Medicaid Commc'n No. 14-15 (Dec. 19, 2014). Although not addressed by either party, A.L.'s Medicaid application should be denied if it can be established that the QIT was improperly funded with resources such as real-estate proceeds.

More importantly, even if the QIT is properly funded, A.L. has the burden of demonstrating his eligibility for Medicaid benefits, and he has failed to do so. There is no evidence in the record to demonstrate that his income is insufficient to pay for his medical care. The only expenses A.L. has submitted for consideration are the cost of his nursing home care ($15,741.80 for thirty-one days of care at $507.80 per day) and the premiums for a Medicaid supplemental policy ($487.95 monthly, the monthly cost for the semi-annual premium of $2,927.66). These expenses total $16,229.75, less than A.L.'s income

of $17,216.24 per month. Because A.L.'s income is sufficient to cover the cost of his care, I **CONCLUDE** that A.L. is ineligible for Medicaid.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that A.L. is income ineligible for Medicaid benefits under N.J.A.C. 10:71-5.6.

I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. § 1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** cannot reject or modify this decision.

If you disagree with this decision, you have the right to seek judicial review under New Jersey Court Rule 2:2-3 by the Appellate Division, Superior Court of New Jersey, Richard J. Hughes Complex, PO Box 006, Trenton, New Jersey 08625. A request for judicial review must be made within 45 days from the date you receive this decision. If you have any questions about an appeal to the Appellate Division, you may call (609) 815-2950.

Mindy Gensler

May 27, 2026
DATE

MINDY GENSLER, ALJ

Date Received at Agency: May 27, 2026

Date Mailed to Parties: May 27, 2026

APPENDIX

Witnesses

For Petitioner:

None

For Respondent:

Anais Rodriguez, Family Service Worker

Teresa Moore, Family Service Supervisor

Exhibits

For Petitioner:

P-1 March 16, 2026, letter from Inglemoor

P-2 January 19, 2025, letter from Cigna

P-3 Qualified Income Trust

For Respondent:

R-1 August 6, 2025, email from Inglemoor regarding room rates

R-2 Packet submitted by Essex County