State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
OAL DKT. NO. HMA 01727-25
AGENCY DKT. NO. N/A

A.T.,
Petitioner,
v.
ESSEX COUNTY BOARD OF SOCIALSERVICES,
Respondent.

Miriam Kahn, for petitioner, pursuant to N.J.A.C. 1:10B-5.1

Julia Harris, Family Services Worker, for respondent, pursuant to N.J.A.C. 1:1-5.4(a)(2)

Record Closed: June 9, 2026 Decided: June 18, 2026

BEFORE **MATTHEW G. MILLER**, ALJ:

STATEMENT OF THE CASE

Petitioner, A.T., appeals the November 7, 2024 denial of his September 30, 2024 application for Medicaid benefits by the Essex County Board of Social Services ("Respondent" or "Agency") for failure to provide information in violation of N.J.A.C. 10:71-

2.2. A.T., through his Designated Authorized Representative ("DAR"), Miriam Kahn, argues that all requested information was supplied in a timely manner in conjunction with a prior application and should have been considered/included with the subject application.

The Agency argued that a full and complete Qualified Investment Trust ("QIT") document was not supplied and that it was unable to approve this specific application.

The scope of the dispute, however, is limited, since A.T.'s subsequent November 20, 2024 application was approved with three months of retroactive benefits being awarded effective August 1, 2024. Given that the QIT was not fully funded until August, if the September denial is reversed, the petitioner concedes that he is only potentially eligible for an award of Pre-Eligibility Medical Expenses ("PEME") for the months of June and July 2024.

PROCEDURAL HISTORY

While the full timeline of events that led to this filing is detailed below, for this specific appeal, the petitioner filed an application for Medicaid on September 30, 2024. That application was denied by letter dated November 7, 2024. On or about November 27, 2024, petitioner's representative timely requested a fair hearing, and the matter was transmitted to the Office of Administrative Law on or about January 15, 2025, for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -23.

An initial conference took place on May 6, 2025, which was followed by a second conference on May 29, 2025. A hearing was scheduled for October 21, 2025, but that was transformed into a conference and the parties requested time to exchange discovery and have the application re-reviewed. Following the respondent's failure to appear for an April 21, 2026 scheduling conference, the parties agreed that the decision could be made based upon their written submissions, although the record was kept open for additional argument until it was formally closed on June 9, 2026.

FACTUAL DISCUSSION AND FINDINGS

The following facts are not in dispute, and I therefore **FIND** the following as **FACTS**:

1. On March 21, 2024, petitioner, A.T., applied for NJ Family Care Aged, Blind, Disabled Medicaid/Managed Long-Term Services and Supports ("MLTSS Medicaid" or "Medicaid") (Application #1). (R-4-98.)
2. On April 3, 2024, the respondent sent a Request for Information ("RFI") to petitioner on Application #1, requesting extensive documentation. This was to be supplied by April 17, 2024. (R-4-107.)
3. On April 12, 2024, A.T. was admitted to Windsor Gardens Care Center,[1] a nursing facility in East Orange, New Jersey. (R-4-89.)
4. By letter dated May 24, 2024, Application #1 was correctly denied. (R-4-112.)
5. On June 14, 2024, the petitioner's QIT was fully and completely established (albeit not fully funded). (P-1.)
6. On June 28, 2024, petitioner applied for Medicaid again. (Application #2). (R-4-76.)
7. On July 25, 2024, the respondent sent an RFI to petitioner on Application #2, requesting, amongst other items, complete QIT documentation. This was to be supplied by August 8, 2024. (R-4-85.)
8. On August 9, 2024, A.T., through his DAR, forwarded the full and complete Qualified Investment Trust ("QIT") documents, including Schedule A, to the work email of Charity Achonye, an Agency employee who was working on the application. (P-1.)
9. By letter dated September 17, 2024, Application #2 was correctly denied due to a failure to supply multiple documents. (R-4-93.)

[1] Also known as Complete Care at East Orange.

10. On September 30, 2024, A.T. filed a third Medicaid application. (Application #3). (R-1-21.)

11. On October 23, 2024, the respondent sent an RFI to petitioner on Application #3, requesting, amongst other items, a completed Schedule A of the QIT document. This was to be supplied by November 6, 2024. (R-4-64.)

12. Application #3 was thereafter denied by letter dated November 7, 2024. (R-2-18.)

13. On November 12, 2024, a full and complete QIT, including Schedule A, was received via email by the respondent. (R-2-3 through R-2-9.)

14. A.T. filed a fourth Medicaid application on November 20, 2024. (Application #4). (R-3-1.)

15. The appeal of the denial of Application #3 was filed on November 27, 2024. It is this appeal that is the subject of the instant fair hearing.

16. The respondent sent an RFI to the petitioner for Application #4 on December 9, 2024. (R-3-11.)

17. By letter dated December 24, 2024, Application #4 was approved with a retroactive date of September 1, 2024. The facility where A.T. was living was then advised to request PEME for August 2024. (R-4-39.)

18. On or about January 5, 2025, the respondent revised its approval and granted August as a third retroactive month.

19. The parties agree that due to A.T.'s QIT not having been fully funded until August 2024, his claim is limited to PEME for the months of June and July 2024.

APPLICATIONS AT A GLANCE

For easier reference, the below details the history of the petitioner's Medicaid applications and denials.

Application #1

Filed	March 21, 2024
Denied	May 24, 2024

Application #2

Filed	June 28, 2024
Denied	September 13, 2024

Application #3 (subject of this fair hearing)

Filed	September 30, 2024
Denied	November 7, 2024

Application #4

Filed	November 20, 2024
Approved	December 24, 2024
Retroactive date	August 1, 2024

ISSUE

After much back-and-forth, it was agreed that the dispute between the parties is not particularly complex. The parties agree that:

a. On August 9, 2024, the petitioner emailed the full and complete QIT, including Addendum A, to the Agency in conjunction with Application #2.

b. On September 13, 2024, the Agency (properly) denied Application #2 for reasons other than the QIT.

c. On September 30, 2024, petitioner filed Application #3. That application did not include the full and complete QIT.

d. Application #3 was denied on November 7, 2024.

e. The full and complete QIT, including Addendum A, was forwarded to the Agency via email on November 12, 2024.

The Agency claims that the QIT was never forwarded to it in conjunction with Application #3 until after the application had been denied and that, therefore, it acted properly per N.J.A.C. 10:71-2.3 et seq., in denying the claim. It points out that the QIT supplied on August 9, 2024, was directed towards a specific caseworker and not the general application mailbox and that it therefore was not seen or considered in conjunction with Application #3.

Petitioner claims that the Agency had been in possession of the full QIT documents since August 9, 2024 and that per Medicaid Communication 22-04, the Agency is obliged to consider that document in conjunction with future applications.

In essence, the argument largely boils down to:

1. Petitioner – "You already had it."
2. Respondent – "Why didn't you just resend it?"

To be honest, a legitimate point versus a legitimate question.

WHAT IS PEME?

A concise explanation of PEME is provided in Medicaid Communication 18-10 (C-1):

> PEME is similar to Retroactive Eligibility; the difference is that with PEME you do not have to be otherwise eligible in those three months prior to the eligibility date. Retroactive Eligibility requires that the individual is "otherwise eligible" during the three month period prior to the date of eligibility. Therefore, PEME bills are paid through the monthly cost share of the Medicaid recipient, while Retroactive Eligibility allows claims to be submitted by providers for DMAHS payment.

Here, the parties agree that A.T. was ineligible for MLTSS benefits prior to August 1, 2024. They further agree that given the approval of his November 2024 application

(#4) and the award of retroactive benefits for August, September, and October, if the denial of his September 2024 application (#3) is reversed, the maximum benefits that he could be awarded is PEME for the months of June and July 2024. See generally, N.J.A.C. 10:71-2.16(a) and N.J.A.C. 10:72-2.7. See also E.B. v. Essex Cnty. Bd. of Soc. Servs., 2016 N.J. AGEN LEXIS 559 (June 30, 2016).

THE QIT

At its most basic, a Qualified Income Trust (also known as a Miller Trust) is a legal way for an MLTSS Medicaid applicant to exempt excess income from Medicaid's income limits. 42 U.S.C. § 1396p(d)(4)(B). See also N.J.A.C. 10:71-4.11. New Jersey has permitted the use of these trusts since December 1, 2014, and the Division of Medical Assistance and Health Services ("DMAHS") has published an excellent Frequently Asked Questions guide that explains the program in detail. (C-3.)

The question here is not the legality of the trust or when it was actually fully functional/funded. The parties agree that A.T.'s QIT was appropriately created and was fully funded as of August 2024. The question isn't even when the Agency was provided with a full copy of same. It is agreed that this occurred both on August 9, 2024, and November 12, 2024. The question is whether the September 30, 2024 application should have been denied based upon the failure of the petitioner to supply the QIT specifically in conjunction with that application.

While I will review the law below, let's review the timeline of the QIT in question.

June 14, 2024 – QIT established (P-1.)

June 28, 2024 – Application #2 filed. (R-4-76.)

August 9, 2024 - Miriam Kahn of Long-Term Care Associates emails Charity Achonye (an employee of the Agency) multiple documents, including "QIT complete." (P-1.)

September 17, 2024 – Application #2 denied. (R-4-93.)

September 30, 2024 – Application #3 filed. (R-4-54.)

October 23, 2024 – RFI sent for QIT to be received by no later than November 6, 2024. (R-4-64.)

November 7, 2024 – Application #3 denied. (R-4-71.)

November 12, 2024 at 12:44 p.m. – Ms. Kahn emailed two documents (the QIT and Schedule A) to Julia Harris (an Agency supervisor). (R-2-3 through R-2-9.)

November 12, 2024 at 1:12 p.m. – Ms. Kahn forwards the preceding email to the "Adult Medicaid Office" at the Agency.

LEGAL ANALYSIS AND CONCLUSION

Perhaps the most concise description of the Medicaid program and how it works in New Jersey is as follows:

> The Medicaid program is a creature of federal law, but is implemented at the state level. It provides coverage for medical care to individuals who cannot afford to obtain it on their own. See 42 U.S.C § 1396, et seq. The program is designed to provide benefits to persons "whose income and resources are insufficient to meet the cost of necessary medical services." 42 U.S.C. § 1396-1. State participation is voluntary; however, states that participate in the Medicaid program must comply with the federal statutory and regulatory framework governing Medicaid. Sabree v. Richman, 367 F.3d 180, 182 (3d Cir. 2004). New Jersey has authorized participation in the Medicaid program through its Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1, et seq. The state's Medicaid program is administered by the DMAHS . . . .
>
> [Galletta v. Velez, 2014 U.S. Dist. LEXIS 75248, at *17 (D.N.J. June 3, 2014).]

The role of counties in the administration of Medicaid cases is as follows:

> Local county welfare agencies evaluate Medicaid eligibility.

> N.J.S.A. 30:4D-7a; N.J.A.C. 10:71-1.5, 2.2(c). An applicant must establish "eligibility . . . in relation to each legal requirement to provide a valid basis for granting or denying medical assistance." N.J.A.C. 10:71-3.1. "The CWA exercises direct responsibility in the application process to . . . [a]ssist the applicants in exploring their eligibility for assistance." N.J.A.C. 10:71-2.2(c)(3). Similarly, an applicant shall "[a]ssist the CWA in securing evidence that corroborates his or her statements." N.J.A.C. 10:71-2.2(e)(2). The CWA "review[s] . . . the application for completeness, consistency, and reasonableness." N.J.A.C. 10:71-2.9.
>
> "[T]o be financially eligible [for benefits], the applicant must meet both income and resource standards." Brown, 448 N.J. Super. at 257 (citing N.J.A.C. 10:71-3.15). Specifically, "[t]he regulations governing an individual's eligibility for Medicaid reimbursement of nursing home costs provide that in order for an individual to participate in the Medicaid Only Program, the value of that individual's resources may not exceed $2,000." H.K. v. State, 184 N.J. 367, 380, 877 A.2d 1218 (2005) (footnote omitted) (citing N.J.A.C. 10:71-4.5(c)). To determine eligibility, the agency evaluates the available assets both of the "institutionalized spouse" and the "community spouse" during a five-year "look back" period. N.J.A.C. 10:71-4.8; N.J.A.C. 10:71-4.10(b)(9); see also 42 U.S.C. § 1396r-5(c)(1)(A).
>
> [N.S. v. Div. of Med. Assistance & Health Servs., 2019 N.J. Super. Unpub. LEXIS 1499, *13–14 (App. Div. July 3, 2019).]

There is no question that it is the duty of the Agency to "verify the existence or nonexistence" of the applicant's assets per N.J.A.C. 10:71-4.2(b)(3):

> The CWA shall verify the existence or nonexistence of any cash, savings or checking accounts, time or demand deposits, stocks, bonds, notes receivable or any other financial instrument or interest. Verification shall be accomplished through contact with financial institutions, such as banks, credit unions, brokerage firms and savings and loan associations. Minimally, the CWA shall contact those financial institutions in close proximity to the residence of the applicant or the applicant's relatives and those institutions which currently provide or previously provided services to the applicant.
>
> Documentation of verification: Any verification which occurs in connection with the determination or evaluation of

resources shall be fully documented in the case record.

[N.J.A.C. 10:71-4.2(b)(3), (c).]

The duties of the agency are also delineated in N.J.A.C. 10:71-2.2(d) where it is also noted that the applicant is also obliged to:

1. Complete, with assistance from the CWA if needed, any forms required by the CWA as a part of the application process;

2. Assist the CWA in securing evidence that corroborates his or her statements; and

3. Report promptly any change affecting his or her circumstances.

[N.J.A.C. 10:71-2.2(e).]

As noted in Galletta, "[w]hen seeking an eligibility decision, applicants must provide the county agencies with documentation and evidence related to their resources." Id. at *17–18.

It should also be noted that in the realm of Medicaid, there must "be strict adherence to law and complete conformity with administrative policies. Requirements other than those established by law or regulations shall not be imposed on any person as a condition of receiving medical assistance." N.J.A.C. 10:71-1.6(a)(4).

With the above as background, it is Medicaid Communication 22-04 (May 3, 2022) that is the guiding document to this decision. The key language is:

> If an applicant/beneficiary fails to provide the requested information, fails to respond to the EDA while under a good faith extension, or fails to respond to EDA outreach, a denial/termination letter with the applicable citation must be sent.
>
> • For denial letters when the individual failed to provide requested information (new applicants only) no further

> documentation will be accepted by the Agency and the individual will be provided with information to reapply. **Verifications from the previous application shall be utilized in the new application where appropriate.**
>
> [Emphasis added.]

While I do not disagree with the respondent's rather basic query during the fair hearing process, questioning why the representative simply had not re-forwarded the full and complete QIT, the language of Medicaid Communication 22-04 is clear; "[v]erifications from the previous application shall be utilized in the new application where appropriate." This is not a case where the Agency needed updated bank statements, divorce paperwork, details of real estate transactions, insurance policy valuations, or any of the other myriad documents necessary to make an eligibility determination. Here, the Agency needed to know if a QIT had been properly established and that had been confirmed on August 9, 2024, when Ms. Kahn emailed the document to Ms. Achonye.

And the Agency has acknowledged receipt of that email. In essence, its argument, in addition to the "Why didn't they send it again?" question, is that instead of sending it only to the caseworker working on that prior application, it should have been sent to the "submissions" email, and therefore it would have gone, apparently, into the document bank. Instead, it was lost in the morass of emails surely received by Ms. Achonye, only to be discovered during the pendency of this case.

So, by the middle of this litigation, the Agency knew that it had had possession of the specific document that it had requested since August 2024, but instead of acknowledging either an honest error or administrative misstep, it simply shifted its defense from "we didn't get it until November 12th" to "you sent it to the wrong email."

The bottom line is that the QIT was sent to a caseworker who was literally working on a pending application in response to an RFI. Once that worker received that document, she had the responsibility to place it in the document bank to be utilized again if that application was denied. She, for whatever reason, didn't do that. I am fully aware that, particularly in Essex County, the workload for Medicaid case workers can be more

than substantial and, simply put, errors like this are understandable. The Agency always had the document, then discovered it always had the document, but still maintained its denial.

At the time that the Agency denied the September 30, 2024 application, it was already in receipt of the documentation that it had requested. While it was "re-supplied" on November 12, 2024, the petitioner was never under an obligation to re-supply it, since, per Medicaid Communication 22-04, it should have been considered as part of that new application.

Having fully considered the substantial documentary evidence supplied by the parties, their arguments and the law, I **FIND** that the petitioner has proven by a preponderance of the credible evidence that the Agency's decision to deny (and continue to deny) the September 30, 2024 Medicaid application (Application #3) was arbitrary, capricious and unreasonable. I therefore **CONCLUDE** that the Agency's denial of the petitioner's September 30, 2024 application should be **REVERSED**.

I further **CONCLUDE** that given the stipulation that A.T. was not financially eligible for Medicaid benefits until August 1, 2024 and that he has already received retrospective benefits for August 2024, he is only eligible to receive PEME benefits for the months of June 2024 and July 2024.

ORDER

Based on the foregoing, it is hereby **ORDERED** that respondent's denial of petitioner's September 30, 2024 application for Medicaid benefits be and is hereby **REVERSED**.

It is further **ORDERED** that the petitioner's September 30, 2024 application for Medicaid benefits be **APPROVED** by respondent.

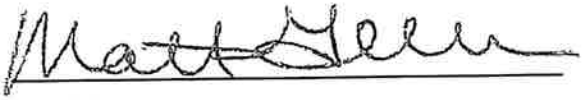
It is further **ORDERED** that the parties cooperate in as expeditious a manner as possible to determine the appropriate PEME payments to the subject facility for the months of June 2024 and July 2024, to which this award is limited.

I hereby **FILE** my initial decision with the **DIRECTOR OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** for consideration.

This recommended decision may be adopted, modified or rejected by the **DIRECTOR OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**, the designee of the Commissioner of the Department of Human Services, who by law is authorized to make a final decision in this matter. If the Director of the Division of Medical Assistance and Health Services does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within seven days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES, Mail Code #3, PO Box 712, Trenton, New Jersey 08625-0712**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 18, 2026
DATE



MATTHEW G. MILLER, ALJ

Date Received at Agency: June 18, 2026

Date Mailed to Parties: June 18, 2026

MGM/sej

APPENDIX

Exhibits

Court:

C-1 Medicaid Communication 18-10

C-2 Medicaid Communication 22-04

C-3 NJ FamilyCare; Aged, Blind, Disabled Programs – Qualified Income Trust (QIT) – Frequently Asked Questions (FAQs) (Updated March 2018)

For Petitioner:

P-1 Email from Miriam Kahn to Charity Achonye with full and complete QIT (August 9, 2024)

For Respondent:

R-1 Fair Hearing Packet #1

- R-1-1 Fair Hearing Summary Report (May 1, 2025)
- R-1-3 Hearing Notice (May 6, 2025)
- R-1-4 DMAHS Referral Packet
- R-1-13 Initial Review Form (November 7, 2024)
- R-1-16 Emails from Julia Harris to Miriam Kahn (October 23, 2024)
- R-1-17 RFI (October 23, 2024)
- R-1-21 Medicaid Application (September 30, 2024)
- R-1-30 Complete QIT with Schedule A (not notarized)
- R-1-38 QIT bank statements (July – October 2024)
- R-1-56 Initial Review Form (January 3, 2025)
- R-1-58 Initial Review Form (December 19, 2024)
- R-1-63 PR-1 (January 3, 2025)
- R-1-64 Fair Hearing and Discrimination Notice

R-2 Fair Hearing Packet #2

- R-2-1 Fair Hearing Summary Report (May 28, 2025)
- R-2-3 Full and Complete Notarized QIT with Schedule A
- R-2-9 Email covering R-2-3 (November 12, 2024)
- R-2-11 Agency case notes (November 7, 2024 – November 20, 2024)
- R-2-12 Denial email from Julia Harris to Miriam Kahn (November 20, 2024)
- R-2-13 Agency case notes (April 2, 2024 – November 7, 2024)
- R-2-18 Denial letter (November 7, 2024)
- R-2-19 QIT Overview PowerPoint
- R-2-31 N.J.A.C. 10:71-4.11

R-3 Fair Hearing Packet #3

- R-3-1 Medicaid Application (November 20, 2024)
- R-3-11 Request for Information (December 9, 2024)
- R-3-15 Same as R-1-56
- R-3-17 Same as R-1-58
- R-3-22 Agency case notes (November 20, 2024 – January 3, 2025)
- R-3-24 Same as R-1-63
- R-3-25 Unapproved PR-1 (January 3, 2025)
- R-3-26 Medicaid Eligibility System notes
- R-3-33 QIT bank statement (October 7, 2024)
- R-3-37 Incomplete QIT
- R-3-42 A.T. Retired Account Information (December 19, 2024)
- R-3-44 SOLQ search data
- R-3-48 LOOPS wage information
- R-3-50 Emails (November 12, 2024 – January 2, 2025)

R-4 Fair Hearing Packet #4

- R-4-1 Fair Hearing Summary Report (October 21, 2025)
- R-4-3 Hearing Notice (October 21, 2025)
- R-4-5 Pre-Admission Inquiry Screen (October 21, 2025)
- R-4-6 PR-1 (January 3, 2025)

R-4-8 PR-1 (December 27, 2024)
R-4-10 Same as R-3-1
R-4-20 Request for Information (December 9, 2024)
R-4-21 Incomplete QIT
R-4-29 Same as R-3-33
R-4-35 Same as R-1-13
R-4-38 Agency case notes (December 9 and 23, 2024)
R-4-39 Approval letter (December 24, 2024)
R-4-46 Same as R-2-3
R-4-52 Same as R-2-9
R-4-54 Medicaid Application (September 30, 2024)
R-4-64 Request for Information (October 23, 2024)
R-4-68 QIT bank transactions (August 12 and September 17, 2024)
R-4-70 Agency case notes (October 23 and November 7, 2024)
R-4-71 Denial letter (November 7, 2024)
R-4-76 Medicaid Application (June 28, 2024)
R-4-85 Request for Information (July 25, 2024)
R-4-89 LTC-2A – Notice of Admission (April 12, 2024)
R-4-92 Agency case notes (September 13, 2024)
R-4-93 Denial letter (September 17, 2024)
R-4-98 Medicaid Application (March 21, 2024)
R-4-107 Request for Information (April 3, 2024)
R-4-111 Agency case notes (May 24, 2024)
R-4-112 Denial letter (May 24, 2024)
R-4-117 DMAHS Income Standard Chart (effective January 1, 2025)
R-4-118 QIT Overview PowerPoint

R-5 Fair Hearing Case Notes (October 31, 2025)