



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 16200-25

AGENCY DKT. NO. N/A

I.G.,

Petitioner,

v.

MIDDLESEX COUNTY BOARD

OF SOCIAL SERVICES,

Respondents.

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

Kurt Eichenlaub, Human Services Specialist 3, for respondent, pursuant to
N.J.A.C. 1:1-5.4(a)(3)

Record Closed: June 22, 2026

Decided: August 27, 2026

BEFORE **JUDITH LIEBERMAN**, ALJ:

STATEMENT OF THE CASE

Petitioner I.G. applied for Medicaid and established a Qualified Income Trust (QIT) to establish income eligibility. The Middlesex County Board of Social Services (Board)

denied her application because it found that the QIT was improperly funded. Was the QIT properly funded? No. One of funding sources listed on the accompanying Schedule A was not deposited into petitioner's QIT account. Medicaid Communication No 14-15.

PROCEDURAL HISTORY

The Board issued its denial notice on August 7, 2025, and petitioner filed a timely appeal. The Division of Medical Assistance and Health Services (DMAHS) transmitted the matter to the Office of Administrative Law (OAL), where it was filed on September 18, 2025, as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. During a December 23, 2025, hearing, the parties requested an adjournment because there was confusion about how another appeal filed by petitioner impacted this matter.¹ The hearing was rescheduled to January 16, 2026 but was adjourned to January 26, 2026, in response to petitioner's request. On January 26, 2026, petitioner advised that the 2023 application was the subject of a remand by the DMAHS and proposed that this appeal be postponed pending the outcome of the remand. Because there was still confusion about the Board's position relative to the two matters, the hearing was adjourned again so the Board could provide a written statement of its position. The Board failed to appear for a February 23, 2026, prehearing conference.² During a March 6, 2026, prehearing conference, petitioner advised that the parties had not received a notice of the disposition of the remanded matter and the Board's representative advised that they were still trying to ascertain relevant facts about that case. The parties agreed to proceed to a hearing on the 2025 application and that they would submit a stipulation of facts prior to the hearing. The hearing was scheduled to be held on March 18, 2026.

On March 17, 2026, the parties jointly requested that they instead proceed by way of written submissions and stipulated facts, as there were no disputed facts. The March 18, 2026, hearing was adjourned and a deadline of April 17, 2026, was established for

¹ Petitioner filed an earlier application (2023 application) and it was unclear what action was taken with respect to it and whether there was a need for consolidation with this case (2025 application). See I.G. v. Middlesex County Board of Social Services, OAL Dkt. NO. HMA 11386-24, Final Decision (Jul. 10, 2025).

² Its offices were closed due to a storm; State offices were open.

the written submissions. On April 17, 2026, the Board submitted a brief and petitioner requested a two-week extension. In making the request, petitioner noted that given the lengthy history of petitioner's applications it was difficult to confirm the relevant facts. On April 17, 2026, the deadline for briefs and the stipulation was extended to May 1, 2026, and the Board was advised that it could withdraw its April 17, 2026, brief and submit a revised brief if it wished to do so.

On May 1, 2026, petitioner requested, with the Board's consent, an additional one-week extension of the deadline for submission of the briefs and a joint stipulation of facts. Their request was granted that day.

On May 8, 2026, petitioner requested that the matter instead proceed to a hearing because a joint stipulation of facts could not be prepared. The same day, the Board advised that it would not propose a joint stipulation of facts and requested a hearing. The hearing was scheduled to be held on May 22, 2026. That hearing was adjourned in response to petitioner's request and was rescheduled to May 26, 2026.

During the May 26, 2026, hearing, the Board waived one of the rationales for its denial of petitioner's application: that she was over-resourced. Testimony was taken and the record remained open for the submission of post-hearing briefs. The record closed on June 22, 2026.

An Order of Extension Nunc Pro Tunc granting an extension of the initial decision due date was issued on August 17, 2026.

FACTUAL DISCUSSION AND FINDINGS

The following is undisputed and I, therefore, **FIND** the following **FACTS**.

Petitioner resides in a nursing facility. On February 17, 2025, she submitted a Medicaid application. R-A. The Board denied her application because it found that her

countable income, \$3,408.02, exceeded the maximum allowed for eligibility, \$2,901. R-

B. Her countable income was:

- Social Security \$1,932
- Private pension NYCERS \$757.83
- Private pension PBGC \$213.19
- Military pension DFAS \$505

[Id. at 6.]

Petitioner established an irrevocable qualified investment trust (QIT) on August 31, 2023. R-D. The QIT document identified the following sources of income for the Trust:

1. Annuity
2. Pension
3. Pension
4. Pension

[Id. at 1.]

Petitioner submitted three Schedules A that each listed the funds to be deposited, for September, October and November.

Schedule A for September listed the following “funds being deposited into” the QIT:

<u>Source</u>	<u>Amount</u>
Social Security	-----
Pension PBGC	\$213.19 ³
DFAS	\$478.00
NYCERS RETRO PAY	\$2,190.12
Other	

³ See R-E at 9-10 (February 21, 2024, and August 2, 2024, letters from Pension Benefit Guarantee Corporation advising that the gross and net monthly pension payment was \$213.19.

Total: \$2,881.31

[R-D at 6(a).]

Schedule A for October listed the following "funds being deposited into" the QIT:

<u>Source</u>	<u>Amount</u>
Social Security	
Pension PBGC	\$213.19
DFAS	\$478.00
NYCERS RETRO PAY	\$2,206.11
Other ANNUITY	\$5,111.27

Total: \$8,008.57

[R-D at 6(b).]

Schedule A for November listed the following "funds being deposited into" the QIT:

<u>Source</u>	<u>Amount</u>
Social Security	
Pension PBGC	\$213.19
DFAS	\$478.00
Other ANNUITY	\$5,111.27

Total: \$5,802.46

[R-D at 6(c).]

None of the Schedules A included the year in which the deposits were made, was notarized, or expressly explained that the subsequent Schedule(s) were revisions of the prior Schedule(s).

For the February 2025, application, the Board reviewed the QIT account statements from February 2025, through July 2025. The only deposits were \$213.19

(PBGC pension) and \$505 (DFAS pension).⁴ These amounts were consistently deposited each of those months. R-D at 45-72. From October 2024, through December 2024, \$213.19 was deposited from the PBGS pension and \$493 was deposited from the DFAS pension. Id. at 35040.

Rebecca Ehern is the Supervisor of Senior Planning Services, which assisted petitioner with her application. She supervised Shani Jacobs, petitioner's designated authorized representative. In her capacity as Supervisor, Ehern was aware that the three Schedules were submitted with petitioner's original application in 2023. She believed but was not certain that the November 2023 Schedule was the last that was submitted to the Board. The year that the Schedules were prepared and submitted was not listed on the documents because they were for the 2023 application; it was plain that they were from 2023 and this could be corroborated by the date of the initial QIT deposit. Changes in the sources were reflected in subsequent Schedules.

The last annuity payment was July 1, 2024. R-E at 13-15. Thus, when the February 2025, application was submitted, there was no annuity but Schedule A was not updated to reflect this. Ehern was told by Board Supervisor Martin Fitzgerald⁵ that the Board would understand that the annuity ended upon receipt of documentation showing this. In Ehern's experience, failure to make this type of amendment was not a basis for denial of a Medicaid application.

The NYCERS pension previously stopped payments to petitioner but on June 12, 2025, it advised that the pension was "no longer suspended" and petitioner was entitled to a retroactive payment of \$6,062.64. R-E at 6. The retroactive payment was added to the scheduled June 2025 NYCERS payment of \$757.83; the total was \$6,820.47. Ibid. Monthly payments of \$757.83 resumed in July 2025. Ibid. The lump sum payment caused petitioner to be over the income limit for Medicaid eligibility and it thus needed to be

⁴ The Board wrote in its brief that the \$505 deposit was from an annuity. However, the annuity is from Unity Financial and its last payment to petitioner, \$5,111.27, was made on July 1, 2024. R-E at 13-15. Also, \$213.19 and \$505 were deposited from the PBGC and DFAS pensions on January 2, 2025. R-D at 42.

⁵ Mr. Fitzgerald retired in March or April 2026.

included in the QIT. After the retroactive payments ended, the amount of the pension was low enough that it did not need to be included in the QIT. Schedule A was amended to reflect this.

The amount of the DFAS Pension changed from year to year. Wells Fargo Bank QIT records show the following annual amounts: \$478 in 2023; \$493 in 2024; and \$505 in 2025. See e.g., R-D at 10, 12 (2023); Id. at 14, 16, 18 (2024); Id. at 42, 46, 50 (2025).⁶ These deposits were consistent through the July 16, 2025, QIT statement, which is the last supplied by the Board. Ehern represented that the Board did not require petitioner to revise the Schedules to reflect the changed amounts.

Funds from petitioner's Social Security income were not listed on the Schedules because it was not deposited in the QIT. "Social Security" is listed under "Source" on the Schedules only because the document is a form prepared by the State agency and it includes "Social Security."

The Board determined that because the October and November Schedules were not notarized and did not "clearly document/memorialize" petitioner's intention to amend the preceding Schedule(s), "it is unclear whether an amendment was intended, and if so, whether such amendment was being made by a person authorized to act in that manner." Resp't's Br. at 1. Moreover, the QIT was not properly funded because its statements show that there were only two funding sources from November 2024, through July 2025, contrary to the representations in the Schedules.

While Ehern testified that the Board did not require petitioner to amend Schedule A to reflect the new DFAS pension income, this is hearsay that is not corroborated by admissible evidence. As such, it is inadmissible and unreliable. N.J.A.C. 1:1-15.5(b); Weston v. State, 60 N.J. 36, 51 (1971). Also, while she testified that the Board did not

⁶ See also Correspondence from Defense Finance and Accounting Service (DFAS) advising that the monthly gross annuity payment was \$478 effective May 19, 2023, \$493 effective December 1, 2023, and \$505 effective December 1, 2024. R-E at 3-5.

say that Schedule A needed to be amended to reflect the increased monthly DFAS pension, there is no evidence of this.

LEGAL ANALYSIS AND CONCLUSION

A Medicaid applicant must meet designated resource and income eligibility standards before they may qualify for the Medicaid program. See 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.

An applicant who would otherwise be over-income may place excess income in a QIT to establish Medicaid eligibility. The DMAHS addressed this in Medicaid Communication No. 14-15, dated December 19, 2014, which provides in part:

QITs are Trust documents tied to a special bank account. The primary function of a QIT is to disregard an individual's income above 300% of the Federal Benefit Rate (FBR). In order for this income to be disregarded, it MUST be deposited monthly into the QIT bank account.

See also Deal v. Velez, 244 F.Supp.3d 435 (D.N.J. 2017); A.D. v. Div. of Med. Assistance & Health Servs., 2016 N.J. AGEN LEXIS 1145 (Sept. 12, 2016).

Accordingly, when an applicant has income in excess of the Medicaid eligibility limit, he must establish and fund a QIT in the month they want Medicaid benefits to commence. See e.g., J.G. v. DMAHS and Camden County Board of Soc. Services., HMA 14423-15, Final Decision (May 12, 2016), <http://njlaw.rutgers.edu/collections/aol/>; G.S. v. DMAHS and Hudson County Board of Soc. Servs., HMA 20755-16, Final Decision (July 6, 2016), <http://njlaw.rutgers.edu/collections/aol/>.

The "funds designated for inclusion in the QIT, as set forth in Schedule A to the QIT document, and the funds actually deposited into the account, as confirmed by the

QIT bank statements, must match.” J.M. v. Div. of Med. Assistance & Health Servs., 2024 N.J. AGEN LEXIS 404, **4-5 (May 28, 2024). In J.M., for example, the applicant’s QIT listed his pension and Social Security income as the funding sources, and Schedule A included the specific amounts of those two sources of income as the “[f]unds being deposited” into the QIT account; thus, he did not establish a valid QIT and become income eligible until he funded his QIT as dictated by the QIT’s Schedule A by depositing both income sources, rather than just his pension income, into the QIT account. In S.F. v. Div. of Med. Assistance & Health Servs., HMA 9222-24, Final Decision (Feb. 18, 2025), www.nj.gov/humanservices/dmahs, the applicant listed her workers’ compensation and annuity payments as the funding sources for her QIT, and included on Schedule A the specific workers’ compensation and annuity income amounts to be deposited in the QIT account. She “did not become financially eligible for Medicaid benefits until December 1, 2023,” when she placed both forms of income in her QIT account, rather than November 1, 2023, when she only deposited the workers’ compensation money into the QIT account.

The DMAHS has addressed the impact of discrepancies between a trust document and the corresponding Schedule A. In K.B. v. Middlesex Cnty. Bd. of Soc. Servs., HMA 9839-16, Initial Decision (Feb. 3, 2017), adopted, Final Decision (May 1, 2017), www.njlaw.rutgers.edu, although the QIT document listed two sources of income (Social Security and pension), the drafter of the document made it clear that they did not intend to deposit Social Security income into the QIT by writing “nursing home is taking” adjacent to the pre-populated entry of “Social Security” under the income source heading. It was held that because the QIT template includes “Social Security,” it is reasonable to expect the person completing the form to address the disposition of that income even if it was not intended to be deposited in the QIT. Also, only the pension was needed to be deposited in the QIT to render the applicant income-eligible. Thus, although the document was not drafted perfectly, sufficient sums were deposited into the trust and the QIT was valid even though the Social Security income was not deposited.

In E.G. v. Division of Medical Assistance & Health Services, HMA 10386-23, Final Decision (Mar. 6, 2024), <https://njlaw.rutgers.edu/collections/oal/>, only "Social Security" was listed as a funding source under "Trust Funding" on the QIT document and Schedule A was not submitted. In response to a request for proof that the QIT had been established and funded for each month at issue, checks, bank statements and two Schedules A were submitted. The Schedules listed Social Security and pension as funding sources but the amounts listed for Social Security differed on the two forms due to an annual increase. Neither schedule was dated and it was unclear when they were executed and effective. Bank statements showed that the deposits for the QIT equaled the amount of the applicant's pension and Social Security.

The DMAHS considered the two Schedules to be an original and an amendment. Petitioner's representative testified that there was no intention to include the pension as a funding source when the QIT was created. The DMAHS did not find this to be a fatal flaw:

There is no language in Medicaid Communication NO. 14-15, or accompanying regulations that prohibit a QIT document and Schedule A from being amended. In fact, QIT documents and Schedules A can and are routinely amended. As long as the Schedule A lists the sources of funding to be deposited into the QIT, those funding sources are deposited into the QIT in the month they are received, and the Schedule A was amended before the updated sources of funding were deposited in the QIT bank account, the QIT may be determined to be properly funded.

[Id. at 5-6 (emphasis added).]

The DMAHS addressed the lack of dates on the Schedules. Because it was unclear when the documents were prepared, the case was remanded for fact finding concerning this and the sources of funding that were used to fund the QIT during each month where eligibility was sought.

Here, accepting that petitioner's annuity ended in July 2024, and that the November 2023, Schedule A need not have been amended to reflect this, there still remains a problem with the QIT. That is, the November Schedule A lists two other funding sources:

Pension PBGC	\$213.19
DFAS	\$478.00

The QIT account statements for February 2025, through July 2025, show that \$478 was not deposited from DFAS. Rather, \$505 was deposited from that pension. Presumably, the amount of the monthly DFAS pension increased since the November 2023, Schedule A was prepared. However, the Schedule was not amended prior to the deposit of the increased amount and thus the amount listed on the Schedule and the amount that was deposited do not match, contrary to the requirements for a properly funded QIT.⁷ Petitioner's representative testified that she believed the November 2023, Schedule A was the last one and there is no evidence of a subsequently amended Schedule. Accordingly, I **CONCLUDE** that the QIT associated with petitioner's February 2025, application was not properly funded.⁸

⁷ This is different from the facts of J.G. v. Middlesex Cnty. Bd of Soc. Servs., OAL DKT. No. HMA 6310-25, Initial Decision (July 7, 2025), upon which petitioner relies. There, the exact amount of the pension that was listed on Schedule A was deposited into the QIT account.

⁸ However, I do not find that the absence of a date or a notarized mark on the Schedules is necessarily problematic. The evidence supports a finding that the Schedules were prepared in 2023 and the rules governing QITs does not require that a notary witness a signature or an amendment.

ORDER

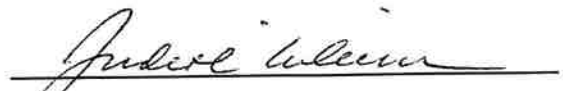
For the foregoing reasons, I **ORDER** that petitioner's QIT was not properly funded and she was thus ineligible for Medicaid in association with her February 2025, application.

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.

August 27, 2026

DATE


JUDITH LIEBERMAN, ALJ

Date Received at Agency:

August 27, 2026

Date Mailed to Parties:

JL/ml

APPENDIX

List of Witnesses

For Petitioner:

Rebecca Ehern

For Respondent:

Kurt Eichenlaub

List of Exhibits

For Petitioner:

None

For Respondent:

R-A Application

R-B Adverse Action Notice

R-C Citations

R-D QIT contract and bank statements

R-E Income sources

R-F Resources, Truist Bank, PNA, Chase