



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Medical Assistance and Health Services

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

J.D.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MIDDLESEX COUNTY

BOARD OF SOCIAL SERVICES

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. No. HMA 12292-25

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is April 6, 2026, in accordance with an Order of Extension.

This matter arises from the June 5, 2025 notice sent by Middlesex County Board of Social Services (Middlesex County), that notified the Petitioner that her Medicaid benefits were terminated for the months of December 2024 through April 2025, and then

effective on May 1, 2025. ID at 2. The Petitioner was previously approved for Medicaid with an effective date of September 1, 2024. Id. The termination of Medicaid benefits from December 2024 through April 2025 was based on the failure to properly fund a QIT between December 2024 through April 2025.

By way of background, as of December 1, 2014, New Jersey received federal authority to cease covering nursing home services under Medically Needy and to permit applicants, who needed institutional level of care in a nursing facility, an assisted living facility, or a home and had income in excess of \$2,829 to place the excess income in a QIT, also known as a Miller Trust, and obtain Medicaid benefits. See 42 U.S.C. §1396p(d)(4)(B). By placing the excess income in a QIT, the County Welfare Agency (CWA) is able to exclude that amount from the income limit. However,

In order for income to be disregarded, it MUST be deposited monthly into the QIT bank account. Checks deposited into the QIT bank account must include the entire dollar amount of that income source (for example, social security check for \$1,000 cannot be broken into \$500 inside the Trust and \$500 outside of the trust), the entire check must be deposited inside or outside the Trust.

Medicaid Communication No. 14-15. In addition to the requirement that checks deposited into the QIT “must include the entire dollar amount of that income source,” the QIT document must contain the following provisions:

- The QIT must contain only income of the individual;
- The QIT must not contain resources such as money from the sale of real or personal property or money from a savings account;
- The QIT must be irrevocable;
- The QIT must have a trustee to manage administration of the Trust and expenditures from the Trust as set forth in federal and state law;
- New Jersey must be the first beneficiary of all remaining funds up to the amount paid for Medicaid benefits upon the death of the Medicaid recipient;
- Income deposited in the QIT can only be used for the specific Post-Eligibility Treatment of Income

and to pay for the Medicaid beneficiary's cost share.

Med-Com No. 14-15.

Importantly, for purposes of Medicaid eligibility limits, income is defined as:

Income defined: For the purpose of this program, income shall be defined as receipt, by the individual, of any property or service which he or she can apply, either directly or by sale or conversion, to meet his or her basic needs for food or shelter. 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.

1. Availability of income: In order to be considered in the determination of eligibility, income must be "available." Income shall be considered available to an individual when:
 - i. With the exception of income from self-employment, the individual actually receives the income;
 - ii. With the exception of income from self-employment, the income becomes payable but is not received by the individual due to his/her preference for voluntary deferment.

N.J.A.C. 10:71-5.1(b)

Resource eligibility is determined as of the first moment of the first day of the month. 20 C.F.R. § 416.1207(a) and N.J.A.C. 10:71-4.1(e). Additionally, any resource that is not specifically excluded by regulation "shall be considered a countable resource for the purpose of determining Medicaid Only eligibility." N.J.A.C. 10:71-4.2(a). N.J.A.C. 10:71-4.1(e)2 states that if, "prior to the first moment of the first day of the month, the applicant or beneficiary has drawn a check (or equivalent instrument) on a checking or similar account, the amount of such check shall reduce the value of the account." That section goes on to caution that "[t]he value of such accounts shall not be reduced by any unpaid obligations for which funds have not already been committed by the drafting of a check." N.J.A.C. 10:71-4.1(e)2. As set forth in N.J.A.C. 10:71-4.1(e)2, if a check is drawn on an account prior to the first day of the month, the check shall reduce the value of the account as of the first of the month following the issuance of the check. Moreover, "[w]hen checks have been drawn on an account, the CWA shall review the appropriate account

registers or check stubs to ascertain the actual balance as of the first moment of the first day of the month." Medicaid law requires [the agency] to follow "the money trail throughout the relevant month in order to determine the end game of the check drawn." H.M. v. Union Cty. Bd. Of Soc. Svs., 2016 N.J. Agen LEXIS 1246 (December 16, 2016) Full documentation of such circumstances is required." N.J.A.C. 10:71-4.1(e)2i. A QIT "may be approved" if, among other requirements, the "QIT is established, funded and approved by the [county welfare agency] to ensure compliance with federal regulations." Ibid. A QIT must be properly funded in order for any excess income to be disregarded in an eligibility determination. In J.M. v. Div. of Med. Assistance & Health Servs., 2024 N.J. AGEN LEXIS 404 (May 28, 2024), DMAHS upheld a county welfare agency's determination that a Medicaid applicant did not become eligible for Medicaid MLTSS until he funded his QIT as dictated by the terms of the trust document.

On or about January 17, 2024, J.P., the Petitioner's daughter and designated authorized representative (DAR) established an Irrevocable Qualified Income Trust (QIT) as grantor. ID at 2. In the "Trust Funding" section of the QIT, three funding sources were listed: "Chase, \$234.77/month; 32 B.J., \$203/month; 1199 SEIU, \$47/month." R-2 at 1. The Petitioner initially applied for Medicaid benefits on December 12, 2024, which was approved, effective September 1, 2024. ID at 3. The Petitioner disclosed her QIT account with Wells Fargo on this application. R-1 at 8.

At the Fair Hearing, J.P. testified that her mother's pension checks were deposited directly into her mother's checking account. ID at 3. J.P. would then transfer the proceeds from all three checks, totaling \$484.77, into the Wells Fargo QIT account. Ibid. However from December 2024 through April 2025, the Petitioner's daughter only deposited \$484.00 into the QIT account. R-3. That is \$ 0.77 less than the full pension amount every month. J.P. affirmed this fact and testified that she missed making the correct deposit

into the QIT. ID at 3.

In the Initial Decision, the Administrative Law Judge (ALJ) found that while the QIT was properly funded at its inception, for the five months between December 2024 through April 2025, the QIT was funded with less than the entire amount of all income sources. Id. at 4. The ALJ concluded that the relevant laws and regulations regarding QIT funding require the entire amount of each income source listed on the QIT to be deposited into the QIT bank account. Id. at 5. While the ALJ's decision was a well-reasoned and plausible attempt to apply state regulations and existing precedents to a highly unique set of circumstances, I ultimately reach a different conclusion.

Although the Initial Decision's statement of the general laws and regulations regarding QIT funding is broadly correct, in the present instance the amount the Petitioner failed to deposit is not just small, it is less than one dollar. \$.77 a month is not merely de minimis or miniscule, it is amount so inconsequential it is contrary to the interests of justice to deny the Petitioner eligibility for Medicaid services because of it. When the Petitioner's DAR discovered this error, she worked expeditiously to correct it and acted in good faith. While I recognize and uphold the principle that a QIT must be properly funded in order for any excess income to be disregarded in an eligibility determination, I also recognize the principle of equity. When weighing the Petitioner's rapidly corrected error of failing to fund \$ 0.77 a month against the effect of disqualifying the Petitioner from the Medicaid program for the months of December 2024 through April 2025, I believe the correct outcome is to preserve the Petitioner's eligibility. Therefore, I find that (1) given the less than de minimis size of the error, and (2) the fact that the Petitioner's DAR worked expeditiously and in good faith to correct this error upon learning about it, the highly unique and specific facts of this case mean that that QIT should be considered properly funded and the Petitioner was eligible for the Medicaid program for the months of December 2024 through April

2025.

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby REVERSE the Initial Decision in this matter and find that the Petitioner was eligible for the Medicaid program for the months of December 2024 through April 2025.

THEREFORE, it is on this 6th day of April 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services