

2018 in accordance with an Order of Extension. The Initial Decision in this matter was received on November 13, 2018.

The matter arises regarding Petitioner's Medicaid application and the denial of Medicaid eligibility due to her failure to meet financial eligibility. By way of background, as of December 1, 2014, New Jersey received federal authority to cease covering nursing home services under Medically Needy and permit applicants, who needed institutional level of care in a nursing facility, an Assisted Living facility or home and had income in excess of \$2,163 (\$2,199 in 2016 and \$2,205 in 2017) to place the excess income in a Qualified Income Trust (QIT), also known as a Miller Trust, and obtain Medicaid benefits. See 42 U.S.C. § 1396p(d)(4)(B). Petitioner's monthly income of \$5,660.25 renders her ineligible until a QIT is established. By placing the excess income in a QIT, Monmouth County is able to exclude that amount from the income limit. Unless and until Petitioner placed his income in excess of \$2,199 amount into the QIT, his income would be considered over the limit. Petitioner concedes that the QIT was not fully funded in September 2017 and has not established that the QIT was fully funded for the months of October and November 2017, prior to her passing.¹

Based on my review of the record I concur with the Initial Decision's conclusion that Monmouth County correctly denied Petitioner's Medicaid application.

¹ The Initial Decision states that Petitioner passed away on November 17, 2017. I am troubled that Senior Planning Services (SPS) submitted a Medicaid application for Petitioner after her death, without proper authorization, on December 28, 2017. I am further troubled that SPS requested a fair hearing without disclosing Petitioner's death and submitted a Designated Authorized Representative form executed by Petitioner's daughter (POA) in May 2018. Pursuant to N.J.S.A. 46:2B-8.5(a), a durable power of attorney terminates with the death of the principal. Consequently, SPS acted without the Petitioner's authorization in filing the Medicaid application and appealing Monmouth County's decision.

THEREFORE, it is on this ^{2nd} day of JANUARY 2019,

ORDERED:

That the Initial Decision is hereby ADOPTED.


Meghan Davey, Director
Division of Medical Assistance
and Health Services