



The matter arises regarding the October 1, 2019 eligibility date set by Camden County. Petitioner had applied in November 2018. In October 2019, Camden sought documents and verifications related to Petitioner's assets. The information was provided through March 2020. By letter dated May 8, 2020, Petitioner was found eligible effective October 1, 2019. Critical to this date was the creation and funding of a Qualified Income Trust (QIT).

Prior to December 2014, individuals with income above the Medicaid limit of 300% of the SSI Federal Benefit Rate (FBR) were not eligible for Medicaid if residing in an assisted living facility. As of December 1, 2014, New Jersey permitted applicants who had income in excess of this amount to place the excess income in a Qualified Income Trust (QIT), also known as a Miller Trust. See 42 U.S.C. § 1396p(d)(4)(B). Medicaid Communication 14-15. Simply put, when an individual's monthly income is placed in a QIT federal law permits that income to be excluded when determining financial eligibility for Medicaid. By executing a written trust agreement, setting up the special bank account and depositing income into the account an individual can now become income eligible for Medicaid Managed Long Term Services and Supports (MLTSS) which includes assisted living facilities.

Petitioner receives income from two sources; a private pension and Social Security. These two checks totaled over \$2,400 and raised Petitioner's income over the \$2,313 limit. On October 11, 2019, Petitioner established a QIT and deposited both checks later that month. As such, this is the first month she met income eligibility.

In upholding the denial, the Initial Decision determined that Petitioner's income exceeded the standard until such time she established and funded a QIT. While

Petitioner's Power of Attorney claimed that she was not aware of the need for a QIT and that Camden did not notify her of this requirement until October 2019, there is no basis to establish eligibility prior to October 1, 2019. It has been noted that "Medicaid is an intensely regulated program." H.K. v. Div. of Med. Assistance & Health Servs., 184 N.J. 367, 380 (2005). DMAHS is obligated to administer New Jersey's Medicaid program in a fiscally responsible manner to ensure that the limited funds available are maximized for all program participants, Dougherty v. Dep't of Human Servs., Div. of Med. Assistance & Health Servs., 91 N.J. 1, 4-5 (1982); Estate of DeMartino v. Div. of Med. Assistance & Health Servs., 373 N.J. Super. 210, 217-19 (App. Div. 2004), certif. denied, 182 N.J. 425 (2005). Income eligibility must exist for each month where eligibility is sought. N.J.A.C. 10:71-5.1. There is no statutory or regulatory leeway to grant Medicaid benefits to those who are above the income limit. Thus I hereby ADOPT the Initial Decision. Petitioner may be eligible for a deduction of her Pre-Existing Medical Expenses (PEME) from her income. Medicaid Communication 18-10.

THEREFORE, it is on this <sup>3rd</sup> day of FEBRUARY 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance  
and Health Services