



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Lt. Governor

SARAH ADELMAN
Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

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

D.T.,

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 5668-2021

On REMAND HMA 6867-2020

As Assistant Commissioner of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is May 2, 2022 in accordance with an Order of Extension.

The matter arises regarding the denial of Petitioner's Medicaid application that was

filed in February 2020 with Middlesex County Board of Social Services. By notice dated April 14, 2020 that application was denied for failure to provide information. Maurice Giro, Esq. filed an appeal of that denial that was docketed at OAL on July 27, 2020. The Initial Decision in this underlying matter modified Middlesex County's determination to establish eligibility as of July 1, 2020 based on a subsequent application filed on October 29, 2020. That Initial Decision was reversed and remanded to the matter to OAL as conclusions regarding an application filed in October 2020 were not properly before the OAL.

On remand, the issues surrounding the February 2020 application and the subsequent denial for failure to provide verifications and documentations related to Petitioner's assets. Petitioner, who was represented by counsel throughout the application process, had set up a Qualified Income Trust (QIT) in August 2019. He identified two sources of income that were bound to be placed in the QIT bank account. In December 2019 Petitioner used \$100,583.75 of his assets to purchase an annuity that would provide him with \$8,396.59 a month for twelve months. That income rendered him ineligible for Medicaid and is not reflected in the QIT document.

Middlesex County sought information regarding the QIT as well as updated information on his pension, cash surrender values of two life insurance policies and proof of spend down of assets. This was not provided and the application was denied.

Petitioner does not appear to contest that the other information was not provided but rather argues that the failure to include the newly purchased annuity income stream in the QIT is not fatal to the application and that Middlesex County had "a duty" to assist Petitioner in amending his QIT. (Petitioner Packet Submission). I find no support for Petitioner's contentions and to extent that the prior Initial Decision was incorporated by

reference supports such a finding, I hereby modify the Initial Decision.¹

The QIT rules are established through federal law at 42 U.S.C.A. § 1396p(d)(4)(B). That statute describes a QIT as “a trust established in a State for the benefit of an individual . . . [that is] is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust).” Petitioner’s creation of the QIT in August 2019 identified two sources of income. At some point Petitioner engaged in Medicaid planning and, with assistance of counsel, used resources to purchase an annuity in December 2019. (Petitioner Packet Submission Exhibit B). At no time did the QIT reflect that the annuity stream was bound by the terms of the trust. As Middlesex County pointed out, Petitioner had ample time between purchasing the annuity in December 2019 and applying for Medicaid in February 2020 to amend the QIT.

While the County Welfare Agencies (CWAs) may assist in “exploring [an applicant’s] eligibility for assistance,” in no way do the CWAs have any duty to help the applicant engage in Medicaid planning as was done here. Petitioner, with the help of counsel, converted over \$100,000 in resources into an income stream to obtain Medicaid benefits. Petitioner’s annuity payments were not part of the QIT when he applied and caused his countable income to exceed the Medicaid limit.

¹ Petitioner argues that the prior Order of Remand did not find fault with the legal analysis in HMA 6887-2020. That Initial Decision was reversed in its entirety as it addressed an outcome letter that had not been appealed and the findings related to incorrect subject matter were likewise reversed.

THEREFORE, it is on this 22nd day of APRIL 2022

ORDERED:

That the Initial Decision is hereby MODIFIED in part as set forth above; and

That the Initial Decision upholding the denial of Petitioner's application is
ADOPTED.

Gregory Woods

OBO

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