



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 09220-25

Medicaid Only
Excess Income Appeal
N.J.A.C. 10:71-5

M.H.

Petitioner,

v.

MIDDLESEX COUNTY BOARD
OF SOCIAL SERVICES

Respondent.

For petitioner: Jake Brand, Designated Authorized Representative

For respondent: Kurt Eichenlaub, Human Service Specialist 3/Medicaid Fair Hearing Liaison

BEFORE: JOAN M. BURKE, ALJ

STATEMENT OF THE CASE

Respondent denied petitioner's Medicaid Only application due to excess income under N.J.A.C. 10:71-5.6.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I.

- ☒ I **FIND** that petitioner or petitioner's representative is **AUTHORIZED** to pursue this appeal; therefore, I **CONCLUDE** that petitioner has **STANDING** to pursue this appeal.
- ☐ I **FIND** that petitioner or petitioner's representative is **NOT AUTHORIZED** to pursue this appeal; therefore, I **CONCLUDE** that petitioner has **NO STANDING** to pursue this appeal.

II.

I **FIND** that petitioner's:

- (1) Earned income is \$ _____ (N.J.A.C. 10:71-5.2, -5.4)
- (2) Unearned income is \$ 2,964.19 (N.J.A.C. 10:71-5.2, -5.4)
- (3) Income exclusions total \$ _____ (N.J.A.C. 10:71-5.3)
- (4) Countable income totals \$ 1,017.19 (N.J.A.C. 10:71-5.4(b))
- (5) The applicable income eligibility standard is \$ 2,829.00 (N.J.A.C. 10:71-5.6)

III.

- ☐ I **CONCLUDE** that petitioner is over the applicable income limit and is therefore income **INELIGIBLE** for Medicaid Only benefits under N.J.A.C. 10:71-5.6.
- ☒ I **CONCLUDE** that petitioner is not over the applicable income limit and is therefore income **ELIGIBLE** for Medicaid Only benefits as of 9/1/2024 (fill in date of eligibility) under N.J.A.C. 10:71-5.6.

ADDITIONAL FINDINGS OF FACT/CONCLUSIONS OF LAW

Petitioner opened an irrevocable Qualified Income Trust (QIT) on September 3, 2024. (R-C.) The QIT was funded by the petitioner's social security income which is noted on Schedule A of the QIT. (R-C at 6.) The amount of the social security to be deposited into the QIT is stated as \$1,772. Ibid. Between September 2024 and February 2025 (These are all the financial documents received by the OAL) the QIT was funded by the petitioner's social security income. There is no documentation that suggests that this has not continued to date.

On September 17, 2024 the petitioner completed an application for NJ FamilyCare Aged, Blind, Disabled Program (NJFC). (R-A.) Petitioner receives \$1017.19 in pensions and \$1,772 in social security. Ibid. On May 6, 2025, the respondent denied petitioner's application on the basis of being over-income. Respondent alleged that the QIT was improperly funded. The respondent's representative, Kurt Eichenlaub testified that on the first page of the QIT under the heading "Trust Funding", it states the income to be placed in the trust would be coming from the "pension." (R-C.) However, on schedule A to the QIT, it states, the source for the funds being deposited into the QIT as "social security" income. Based on this discrepancy, the respondent concluded that the QIT was improperly funded and thus the petitioner was over-income. I disagree.

The petitioner's former designated authorized representative (DAR), Esther Lankry, testified that she did not complete the QIT, but the petitioner's attorney did. The current DAR, Jake Brand testified and argued that social security is a type of pension and the petitioner's application should not be denied on the basis that the QIT was improperly funded. The QIT was since amended to reflect consistency with the "Trust Funding" found on page one of the QIT with the "Schedule A" found on page 6 of the QIT. (P-1.)

Pursuant to N.J.A.C 10:71-5.1, a condition of eligibility for the Medicaid Only Program is that the petitioner must comply with the income standard. Under Medicaid Communication No. 14-15, "the primary function of a QIT is to disregard an individual's income above 300% of the Federal Benefit Rule (FBR). In order for this 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. (R-B.) Petitioner's countable income is \$2,964.19 (\$1,017.19 from pension and \$1,947.00 from social security). (R-B.) The income eligibility limit is \$2829. Ibid.

Here the petitioner opened up a QIT account on September 3, 2024. The Schedule A to the QIT correctly identified the source of the funds being deposited into the QIT as "Social Security." The full amount of the petitioner's social security between September 2024 and February 2025 were deposited into the QIT. The QIT was irrevocable. Petitioner had no access to this fund. Because his social security income was deposited into the QIT the petitioner was under the income cap. I therefore **CONCLUDE** that the petitioner was not over the applicable income limit and is therefore eligible for Medicaid Only Benefit.

ORDER

I **ORDER** that:

- ☐ Petitioner's appeal is **DISMISSED** because petitioner has **NO STANDING**.
- ☐ Petitioner is income **INELIGIBLE** for Medicaid Only benefits under N.J.A.C. 10:71-5.6.
- ☒ Petitioner is income **ELIGIBLE** for Medicaid Only benefits as of 09/01/2024 under N.J.A.C. 10:71-5.6.

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.

September 18, 2025

DATE

Date Record Closed:

Date Filed with Agency:

Date Sent to Parties:



JOAN M. BURKE

, ALJ

09/15/2025

APPENDIX

Witnesses

For Petitioner:

Esther Lankry- Designated Authorized Representative (former)
Jake Brand- Designated Authorized representative

For Respondent:

Kurt Eichenlaub, Human Service Specialist 3/Medicaid Fair Hearing Liaison

Exhibits

For Petitioner:

P-1 Qualified Income Trust

For Respondent:

R-A NJ FamilyCare Application, September 17, 2024

R-B Eligibility Determination, May 6, 2025; Monthly Income Calculation; Regulations

R-C Qualified Income Trust Contract; Wells Fargo Bank Statements