

(Monmouth County) March 21, 2025, notice denying Petitioner's July 22, 2024, Medicaid application for being over the income limit to qualify for benefits, as a result of her failure to properly fund a Qualified Income Trust (QIT).

On July 22, 2024, Petitioner filed a Medicaid application with Monmouth County, which identified that the Petitioner received \$2,115.19 in Social Security income. ID at 2. Monmouth County sent a Request for Information (RFI) dated January 13, 2025, requesting additional bank information for accounts associated with Chase Bank, with a due date of January 27, 2025. Ibid. On February 3, 2025, Petitioner responded with additional document, including the QIT. Ibid. On February 20, 2025, Monmouth County send a second RFI letter requesting additional banking information and a copy of Petitioner's pension statement for 2024 and 2025 showing both net and gross payment amounts. ID at 2-3. Petitioner supplied the requested documents which showed a monthly gross income in the amount of \$5,297.96 from January through August with a tax withholding of \$305.09, for a net monthly check of \$4,992.87. ID at 3. For September through December, the monthly check increased to \$5,311.46 with a tax withholding of \$306.71, for a net monthly check of \$5,004.75. Ibid.

On March 21, 2025, MCBSS denied Petitioner's Medicaid application, stating that her income exceeded the limit to qualify for benefits as a result of her QIT being improperly funded. ID at 3.

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)

After this matter was transmitted to the OAL, Petitioner filed a motion for summary decision and Monmouth County filed a response to the motion. Summary decision may be granted when the papers and discovery that have been filed show that there is no genuine issue as to any material fact challenged, and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5(b). No evidentiary hearing need be held if there are no disputed issues of material fact. Frank v. Ivy Club, 120 N.J. 73, 98, cert. denied, 498 U.S. 1073 (1991).

After concluding that summary decision was appropriate for this matter, the Initial Decision focused on the four claims raised by Petitioner, which are: 1) withheld tax is not income as defined in N.J.A.C. 10:71-5.1(b); 2) requiring the gross income to be placed in the QIT impermissibly prejudices the applicant in violation of 42 C.F.R. §435.902 (2025); 3) the requirement that the entire check be placed in the QIT is arbitrary and capricious and constitutes improper rule making; and 4) Monmouth County's delay in notifying the Petitioner about the problem of the improper funding of the QIT caused harm to the Petitioner. ID at 3-5.

I acknowledge that this case represents a complex and relatively unusual situation, and that reasonable observers may differ on how to appropriately apply the various intersecting laws and regulations that may be potentially relevant. That said, I disagree that summary decision was appropriate for this matter. There are several outstanding factual questions that should be explored further before reaching final decision in this case.

First, the thrust of Petitioner's arguments related to the QIT are premised on the assumption that Petitioner did in fact have an obligation to pay taxes on the NYCERS

pension funds. However, there is nothing in the current record that confirms this assumption. Neither the mere fact that Petitioner elected to withhold tax payments nor the amount of Petitioner's pension income is in itself dispositive on this point. As this obligation must be established for Petitioner's arguments to be applicable, this matter must be remanded to allow Petitioner the opportunity to establish that fact.

Second, the QIT statements attached to Monmouth County's brief only show an amount being deposited, not the income source itself. In order for the record to be complete, the corresponding statements showing receipt of the income in question should be provided.

Third, it would be helpful if the record can be expanded to include any further explanation of why Monmouth County did not correspond with Petitioner for almost six months after the application was submitted. Similarly, the Petitioner should have the opportunity to address any specific reasons why the existence of both the pension and the QIT were not disclosed until after a Request for Information letter was sent, which was also over six months after the application was submitted.

THEREFORE, it is on this 26th day of February 2026,

ORDERED:

That the Initial Decision is hereby REVERSED, and

That the matter is REMANDED to OAL for a full hearing to address all pertinent issues as set forth above.



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