



State of New Jersey

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CHRIS CHRISTIE  
Governor

ELIZABETH CONNOLLY  
Acting Commissioner

KIM GUADAGNO  
Lt. Governor

VALERIE HARR  
Director

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

R.K.,	:	
	:	
PETITIONER,	:	<b>ADMINISTRATIVE ACTION</b>
	:	
v.	:	<b>FINAL AGENCY DECISION</b>
	:	
DIVISION OF MEDICAL ASSISTANCE	:	<b>OAL DKT. NO. HMA 4457-2015</b>
	:	
& HEALTH SERVICES &	:	
	:	
BURLINGTON COUNTY BOARD OF	:	
	:	
SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

As Director 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 Agency Decision is July 6, 2015, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or

modify the Initial Decision within 45 days of receipt. The Initial Decision in this matter was received on May 21, 2015.

Petitioner is seeking Medicaid benefits in an assisted living (AL) facility. He applied in September 2014. At that time individuals with gross income above \$2,163 or 300% of the SSI Federal Benefit Rate (FBR) were not eligible for Medicaid if residing in an AL 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). 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 AL facilities.

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. Petitioner had monthly income of \$2,271 in 2014 and \$2,302 in 2015. Based on the limit in 2014 and the increased 2015 limit of \$2,199, Petitioner's only path to income eligibility was the use of a QIT. Prior to the December 1, 2014 effective date that permitted the use of QITs in New Jersey, Petitioner was not eligible for benefits in the AL facility. Thus, in order to qualify for eligibility after that date, Petitioner would have to establish and fund the QIT in the month he wished to Medicaid benefits to commence. That was done in March 2015 and Burlington County found Petitioner eligible as of March 1, 2015.

Petitioner is seeking an earlier eligibility date back to November 2014. However, as stated above, prior to December 1, 2014, individuals residing in an AL facility had to

have income below \$2,163. Petitioner, who had income in excess of that amount, could only establish eligibility after December 1, 2014 by using a QIT.

The record is clear that Petitioner did not establish the QIT until March 2015 and the Initial Decision concurred that "the effective date set by the board of March 1, 2015, was proper." ID at 4. Based on my review of the record and the applicable law, I concur that Burlington County established the correct date. I do note that the Initial Decision inaccurately made findings regarding Petitioner's resources and stated that a transfer penalty was imposed. While Burlington County was reviewing a \$35,000 account balance in March 2015, it was determined that those funds had been withdrawn and properly spent in 2014. R-1 at 2. Thus, I concur with the conclusion regarding the eligibility date but modify the Initial Decision in so far as those funds did not affect Petitioner's eligibility and that no transfer penalty was imposed.

THEREFORE, it is on this 1<sup>st</sup> day of JULY 2015

ORDERED:

That the Initial Decision is hereby ADOPTED with regard to the March 1, 2015 eligibility date; and

That the Initial Decision is MODIFIED with regard to the fact that the Petitioner's resources were not at issue and that no transfer penalty was imposed.



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Valerie Harr, Director  
Division of Medical Assistance  
and Health Services