



fund a Qualified Income Trust (QIT).<sup>1</sup>

On July 13, 2021, Petitioner filed an application for Medicaid benefits with MCBSS. Petitioner's income was derived from two sources: monthly Social Security benefits in the amount of \$1,107 and monthly annuity payments in the amount of \$8,740 for a period of eight months. ID at 3. On May 12, 2021, Petitioner established a QIT. On Schedule A to the QIT document, Petitioner lists only the annuity payments, commencing on July 5, 2021, as the source of funding for the QIT. P-B. Schedule A does not include Petitioner's Social Security benefits as an additional source of funding for the QIT. However, Petitioner's trustee deposited Petitioner's Social Security benefits into the QIT on a monthly basis, bringing the total monthly deposits to \$9,847 from July 21, 2021 through December 2021, and \$9,900 in January 2022, due to Petitioner's Social Security benefits being increased as a result of a cost of living adjustment. MCBSS denied Petitioner's application, stating that her income exceeded the limit to qualify for benefits as a result of improperly funding the QIT.

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 \$2,163 (\$2,382 in 2021 and \$2,523 in 2022) 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

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<sup>1</sup> Petitioner's July 13, 2021 Medicaid application was previously denied by MCBSS based upon a determination that her monthly income exceeded her monthly medical expenses. That determination was appealed and was transmitted to the OAL for a fair hearing. The Administrative Law Judge (ALJ) in that matter reversed the denial and ordered that MCBSS reconsider its determination based upon Petitioner's other eligibility factors. On August 2, 2022, I adopted the ALJ's Initial Decision and returned the matter to MCBSS for further action on Petitioner's application. The subject of the current appeal relates solely to the September 29, 2022 determination issued by MCBSS.

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.

The Initial Decision in this matter found that MCBSS properly denied Petitioner's application, as Petitioner failed to prove that the QIT was properly funded. I concur. The funds designated for inclusion in the QIT, as set forth in a Schedule A to the QIT document, and the funds actually deposited into the account, as confirmed by the QIT bank statements, must match. The CWA must be able to use the trust document as a legal framework for the income allocated to the QIT account. Here, Petitioner chose to establish a QIT where it specifically directed that only her annuity payments in the amount of \$8,740 would be deposited into the QIT each month. Petitioner's Social Security income was not listed as a source of funding for the QIT. As a result of Petitioner depositing her Social Security income into the QIT, the balance in the QIT account for the period of July 2021 through January 2022 exceeded the monthly deposit balance allocated in Schedule A. The QIT bank statements confirmed that Petitioner did not fund the QIT account as dictated by the terms of the trust.

Accordingly, I agree that this prohibits eligibility, as the failure to follow the terms of the trust causes Petitioner to exceed the income limit to qualify for benefits.

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision's conclusions.

THEREFORE, it is on this 30th day of MARCH 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED.

**Carol A Grant**

**OBO Jennifer**

**Langer Jacobs**

Digitally signed by

Carol A Grant OBO

Jennifer Langer Jacobs

Date: 2023.03.30

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