



State of New Jersey

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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MEGHAN DAVEY  
Director

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

E.T.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 17847-2015
	:	
AND HEALTH SERVICES AND	:	
	:	
CAMDEN 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 in this matter is July 18, 2016 in accordance with an Order of Extension.

The matter arises regarding Petitioner's Medicaid eligibility date. Petitioner, through her counsel, applied for Medicaid benefits in November 2014. She was

residing in a nursing home at that time. Camden County determined that Petitioner was eligible for benefits as of February 1, 2015 and subject to a 61 day penalty due to the transfer of \$20,000 to her daughter. Petitioner is seeking benefits as of December 2014 so that the transfer penalty can run concurrently with a two month annuity paying \$6,501.63. The matter turns on Petitioner's income eligibility for December 2014 and January 2015. Petitioner is not challenging the transfer penalty.

The Initial Decision upheld the February 1, 2015 eligibility date and the transfer penalty, finding that the Petitioner was not eligible in December 2014 or January 2015 due to the failure to put the income into a Qualified Income Trust (QIT). I concur that the February 1, 2015 eligibility date was correctly decided. During those months Petitioner had countable income of \$8,448.98 which exceeded the limit of \$2,199. It was the failure to establish and deposit the income in the QIT during these months that renders Petitioner ineligible.

By way of background, as of December 1, 2014, New Jersey received federal authority to cease covering nursing home services under Medically Needy and permit applicants, who needed institutional level of care in a nursing facility, an AL facility or home and had income in excess of \$2,163 (currently \$2,199) 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). Petitioner's income of \$8,448.98 renders her ineligible unless and until she placed funds in excess of \$2,199 amount into the QIT.

Petitioner argues that she didn't know that she needed a QIT and that Camden County failed to tell her. I note that on November 6, 2014 Petitioner sought an appointment to apply for benefits and reported her income to be \$1,653 in Social Security and \$138 from a private pension. R-1 at 1. There was no need for a QIT

based on the reported income. On November 19, 2014, Petitioner began the process to use \$13,000 of her excess resources to purchase an annuity that would pay for her care while she was penalized for transferring \$20,000 to her daughter. R-1 at Tab A. That annuity was purchased to pay for December 2014 and January 2015, which are the two months she anticipated being barred from receiving Medicaid benefits.<sup>1</sup>

Petitioner is seeking to have her eligibility for nursing home services determined under the Medically Needy Program. However, on December 1, 2014, with the advent of the use of QIT's, New Jersey no longer covered nursing facility services in the Medically Needy Program. See [http://www.state.nj.us/humanservices/mahs/clients/QIT\\_FAQs.pdf](http://www.state.nj.us/humanservices/mahs/clients/QIT_FAQs.pdf) (November 25, 2014 version attached to Petitioner's April 7, 2015 submission).

Prior to that version of the FAQs, at a Medical Assistance Advisory Council (MAAC) Meeting on October 4, 2014, where members of the public, advocacy groups and the bar were present, information was provided that New Jersey was seeking authority to cover individuals in a nursing home, assisted living or home-based living by using a QIT. [http://www.state.nj.us/humanservices/dmahs/boards/maac/MAAC\\_Meeting\\_Presentations\\_10\\_6\\_14.pdf](http://www.state.nj.us/humanservices/dmahs/boards/maac/MAAC_Meeting_Presentations_10_6_14.pdf), at slide 2. There were other notices and presentations by DMAHS prior to the December 1, 2014 effective date. Moreover, questions regarding QITs could be sent to a dedicated email.

Thus, I FIND that Camden County correctly determined Petitioner's eligibility as February 1, 2015 for the reasons set forth above.

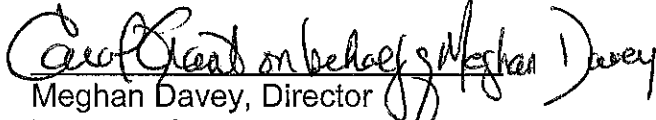
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<sup>1</sup> As the full value of the annuity contract was revocable as of December 1, 2014, Petitioner would have also been found to be over the \$2,000 resource limit. The annuity policy was revocable as of that date and could be canceled. See P-1 at 15 and 19 and R-1 at 27.

THEREFORE, it is on this <sup>16<sup>th</sup></sup> day of JUNE 2016,

ORDERED:

That the Initial Decision is hereby ADOPTED with regard to Petitioner's February 1, 2015 eligibility date.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services