



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

PO Box 712

TRENTON, NJ 08625-0712

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

CAROLE JOHNSON
Commissioner

MEGHAN DAVEY
Director

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

G.O.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

OCEAN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 16347-2017

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 June 11, 2018 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 April 25, 2018.

The matter arises regarding Petitioner's Medicaid eligibility related to her income. Petitioner has been under guardianship since November 2015 and the Office of the Public Guardian (OPG) was appointed as his guardian. The OPG applied for Medicaid benefits on July 2016. He was residing in a nursing home at that time and had income from Social Security and a pension totaling \$2,647. ID at 2. In January 2017 the OPG established and funded a Qualified Income Trust (QIT). Ocean County determined Petitioner was eligible as of January 1, 2017. The matter turns on Petitioner's income eligibility for the prior months.

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 (\$2,205 in 2017) to place the excess income in a Qualified Income Trust (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, Ocean County is able to exclude that amount from the income limit.

Income received during a calendar month is considered income for that entire month. N.J.A.C. 10:71-5.2(b)1. The unspent income in the following month counts towards resources. N.J.A.C. 10:71-4.1(c). Petitioner's income of \$2,647 renders him ineligible. Unless and until he placed funds in excess of \$2,205 amount into the QIT, his income would be considered over the limit.

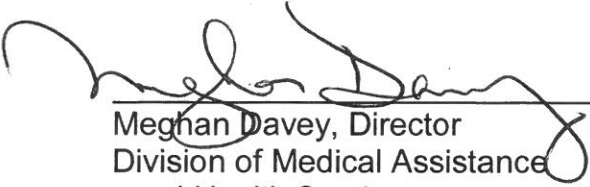
The Initial Decision upheld eligibility for the month of January 2017, finding that the Petitioner met the income requirements for that month when the OPG placed his excess income into the QIT. Petitioner's argument is based on hypotheticals surrounding the amount of the pension. Moreover, there is no evidence that any effort was made after July 2016 to determine the amount of the pension. Based on my review of the record I concur

with the Initial Decision's conclusion that Ocean County correctly set Petitioner's Medicaid eligibility for January 1, 2017.

THEREFORE, it is on this 5th day of JUNE 2018,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Meghan Davey, Director
Division of Medical Assistance
and Health Services