



17, 2019. In May 2020, Atlantic County requested information regarding the unreported alimony. The information regarding the QIT was not presented, and on November 17, 2020, Atlantic County issued its' determination that Petitioner's February 2020 Medicaid Only application was granted with eligibility effective April 1, 2020. Petitioner appealed the eligibility determination asserting that a Qualified Income Trust (QIT) was established on November 14, 2019, and the alimony income should not have been counted in determining eligibility. The matter was transmitted to the OAL to be heard as a contested case.

The Initial Decision upholds the eligibility determination finding Petitioner did not provide proof of the QIT until after eligibility was determined. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ).

In the present matter, neither the alimony payments received by Petitioner, nor the QIT were disclosed on the January 21, 2020 application. However, Atlantic County conducted a review of Petitioner's financial documents and identified two sources of income. The first, and only one identified on Petitioner's Medicaid application<sup>1</sup>, was \$1,487 per month in Social Security. ID at 3. The second source was \$1,300.20 per month in alimony, which was not identified on the application. In May 2020, Atlantic County requested information regarding the unreported alimony. ID at 8. The information regarding the QIT was not presented at that time. Thus, the County determined Petitioner's income to be \$2,810.20,<sup>2</sup> which exceeded the Monthly income limit of \$2,349 for Medicaid eligibility. Based on the information available at the time, the County concluded Petitioner stopped receiving alimony in March 2020. As a result of the decreased income Petitioner became eligible effective April 1, 2020.

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<sup>1</sup> The income increased from \$1,487 to \$1,510 in December 2019.

<sup>2</sup> \$1,510 Social Security + 1,300 Alimony

On December 10, 2020, Petitioner's DAR submitted a request for reconsideration of the eligibility date based on the existence of the QIT, which was included in the correspondence.

Prior to December 2014, individuals with income above the Medicaid limit of 300% of the SSI Federal Benefit Rate (FBR) were not eligible for Medicaid if residing in an assisted living 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). Medicaid Communication 14-15. 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. 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 assisted living facilities. Petitioner received income from two sources; alimony and Social Security. These two checks totaled over \$2,800 and raised Petitioner's income over the \$2,349 limit.

In upholding the County's eligibility determination, the Initial Decision determined that the DAR acted negligently by failing to report the QIT. It has been noted that "Medicaid is an intensely regulated program." *H. K. v. Div. of Med. Assistant & Health Ssrvs*, 134 N. J. 367, 380 (2005). DMAHS is obligated to administer New Jersey's Medicaid program in a fiscally responsible manner to ensure that the limited funds available are maximized for all program participants, *Douahertv v. Dep't of Human Servs*, *Div nf M'd. Assistance & Health Servs.*, 91 NJ\_ 1, 4-5 (1982); *Estate of DeMartino v. Div. of M<sup>^</sup>. Assistance & Health servs-* 373 NJ-SUPer. 210, 217-19 (App. Div. 2004), certif. denied. 182 N.J. 425 (2005). Income eligibility must exist for each month where eligibility is sought. NJ.A. C. 10:71-5. 1. There is no statutory or regulatory leeway to grant Medicaid benefits to those who are above the income limit. Additionally, a CWA is not required to accept the documentation related to an applicant's

application after a determination letter is issued. See MedCom No. 10-09 (stating “After the denial letter is sent, no further documentation will be accepted by the Agency. The applicant or their representative will be informed that a new application must be submitted.”). Medicaid Communication 18-10.

Based upon my review of the record and for the reasons set forth herein, I hereby ADOPT the ALJ’s recommended decision and FIND that Petitioner became eligible for Medicaid when she stopped receiving the alimony payment.

THEREFORE, it is on this 13th day of SEPTEMBER 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.

*Gregory Woods*

OBO JLJ

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