



State of New Jersey

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

O.F.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
HUDSON COUNTY DEPARTMENT
OF FAMILY SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 09773-2021

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 5, 2021 in accordance with an Order of Extension.

This matter arises from Hudson County Department of Family Services's (Hudson County) November 1, 2021 notice denying Petitioner's Medicaid application due to her failure to provide information that was necessary to determine eligibility. Specifically, Petitioner

failed to provide documentation showing that her Qualified Income Trust (QIT) was properly funded.

Both the County Welfare Agency (CWA) and the applicant have responsibilities with regard to the application process. N.J.A.C. 10:71-2.2. Applicants must complete any forms required by the CWA; assist the CWA in securing evidence that corroborates his or her statements; and promptly report any change affecting his or her circumstances. N.J.A.C. 10:71-2.2(e). The CWA exercises direct responsibility in the application process to inform applicants about the process, eligibility requirements, and their right to a fair hearing; receive applications; assist applicants in exploring their eligibility; make known the appropriate resources and services; assure the prompt accurate submission of data; and promptly notify applicants of eligibility or ineligibility. N.J.A.C. 10:71-2.2(c) and (d).

Moreover, 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 at the time of the present matter) 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 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 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.

Ibid.

The Initial Decision in this matter upheld the denial of Petitioner's application. I concur. By letter dated October 13, 2021, Hudson County requested "[p]roof of QIT funding" and advised that the QIT "statement should reflect the complete amount deposited in the QIT (\$4400.11). Improper funding may result in delay/or denial of the application." R-1 at Exhibit C. While the Petitioner provided some documentation to Hudson County regarding the QIT, the documentation provided failed to show that the QIT was properly funded in October 2021, which is the date that Petitioner is seeking eligibility in this matter. The failure to provide proof of funding, thus, appropriately resulting in the denial of Petitioner's application.

Moreover, I note that, in fact, the documentation that was provided shows that the QIT was not properly funded in October 2021. Schedule A of the QIT agreement provided that Petitioner's monthly Unity Financial Insurance Company annuity payment of \$4,400.11¹ was to be deposited into the QIT. Id. at Exhibit F. The QIT funding statement for October 2021 showed that only \$4,300.11 was deposited in the QIT on October 18, 2021. R-1 at Exhibit G. Petitioner argues that the total amount of the annuity payment was deposited because \$100 was deposited in August 2021 when the account was opened. However, that \$100 is not

¹ Schedule A appears to contain a typographical error, as it lists the annuity payment as \$4,400.01. The annuity income verification letter from Krause Financial Services provides that the payments on Petitioner's annuity would be begin on August 2, 2021 in the amount of \$4,400.11 and will pay that rate for a period of five months. R-1 at Exhibit E. Accordingly, \$4,400.11 is the correct amount that should have been deposited into the QIT in this matter.

part of the October 2021 annuity payment, as it was received and deposited in the QIT two months prior to the month at issue in this matter. Income is only considered "income" in the month it is received. 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). See Supplemental Security Income (SSI) guidance, namely Program Operations Manual System (POMS), SI 00810.010 Relationship of Income to Resources ("In general, anything received in a month, from any source, is income to an individual, subject to the definition of income for SSI purposes in that is Income SI 00810.005. Anything the individual owned prior to the month under consideration is subject to the resource counting rules. An item [that an individual] receive[s] in the current month is income for the current month only. (See exceptions to this general rule in SI 00810.030.) If held by the individual until the following month, that item is subject to resource-counting rules. (See exception in SI 01110.100 - SI 01110.115.)"). See also 42 U.S.C.A. 1382a; 20 C.F.R. §§ 416.1111 and 416.1123. Accordingly, that \$100 deposit is no longer income but is now considered a resource, which cannot be counted as part of Petitioner's October 2021 income payment through the annuity. Petitioner is not permitted to add this \$100 deposit to make up for the fact that she failed to deposit the full October 2021 annuity payment in the QIT. As noted above, "[c]hecks deposited into the QIT bank account must include the entire dollar amount of that income source. . . ." Medicaid Communication No. 14-15. As the entire amount of Petitioner's October 2021 annuity payment of \$4,400.11 was not deposited into the QIT account in October 2021, the annuity payment could not be excluded from her income in October 2021 and would then be properly included towards the income threshold, resulting in Petitioner being over the income limit to qualify for benefits, which was \$2,382 in 2021.

While the only month at issue in this matter appears to be October 2021, I additionally note that there are other questions related to Petitioner's full annuity payments for both August and September 2021. There has been no documentation provided that shows that

the annuity payments for these months were properly deposited into the QIT during the months in which the payments were received.

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 31st day of MAY 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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