

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 (\$2,349 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 reversed the denial of Petitioner's application. I disagree. On February 28, 2020, Petitioner, through her Authorized Designated Representative (DAR), D.P., filed an application for Medicaid benefits. The application indicated that Petitioner had established and funded a QIT on January 31, 2020. Through the application process, it was determined that Petitioner had a monthly income of \$2,812 which exceeded the Medicaid limit of \$2,349. Accordingly, on May 8 and June 15, 2020, BCBSS asked Petitioner to provide a copy of Petitioner's QIT and proof that the QIT had been properly funded.

On June 1, 2020, Petitioner provided an incomplete copy of the QIT. The copy failed to identify the items required in Schedule A, specifically the location of the bank trust account and identifying information. Petitioner's response also failed to include proof that the QIT was funded. On June 26, 2020, Petitioner asked for additional time to provide the requested information. At some point during the process, BCBSS was provided with the QIT bank statements for the time period beginning January 31, 2020 through July 22, 2020.¹ These bank statements show that the QIT had not yet been funded. Therefore, on July 1, 2020, BCBSS issued a denial notice due to Petitioner's income exceeding the income limit without a properly funded QIT.

¹ It is unclear when BCBSS came into possession of the QIT bank statements. However, I note that if they were not provided in connection with the first application, and therefore the basis for the denial, the statements still show that she was not income eligible.

Petitioner was not denied for failing to provide information in response to a general request for verifications of Medicaid eligibility.² She was denied because she did not, and could not, show that the QIT she established in January 2020 was properly funded. As stated above, in order for income to be disregarded, the full amount of any income source must be deposited monthly into the QIT bank account. Medicaid Communication No. 14-15. The QIT bank statements from January 2020 through July 2020 do not show that Petitioner's full income source was deposited monthly into the account. Consequently, Petitioner's income, which exceeded the Medicaid limits, could not be disregarded. As a result, she was not income eligible from the time of application through the July 2020 denial letter.³ Petitioner does not assert that the information contained in the QIT bank statements is incorrect. As such, there is no extension of time that could change the information in these bank statements, or Petitioner's lack of eligibility due to excess income.

THEREFORE, it is on this 5th day of DECEMBER 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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

² There is no documentation in the record to show that Petitioner, or her representative, made any attempt to obtain these documents from the bank in a timely manner, supporting the request for an extension of time to provide the documentation due to difficulties in obtaining bank statements during the COVID-19 pandemic.

³ This is consistent with Petitioner's statement that her second application was granted effective August 1, 2020. (Pt. Brief).