



The matter arises regarding Petitioner's March 15, 2023 application whereas the Ocean County Board of Social Services (Ocean County) approved Petitioner's eligibility for Medicaid benefits with an effective date of March 1, 2023. The issue presented here is whether Ocean County correctly determined Petitioner's Medicaid eligibility date.

On March 15, 2023, Petitioner filed an application with Ocean County for the New Jersey FamilyCare Aged, Blind, Disabled Medicaid Managed Long-Term Services and Supports Program (MLTSS) through their representative<sup>1</sup>. (R-1.) On March 23, 2023, Ocean County sent a request for information (RFI) asking for Petitioner's current bank statements for all accounts including the Qualified Income Trust (QIT). (R-2). On July 5, 2023, Ocean County approved Petitioner's application for Medicaid benefits with an effective date of March 1, 2023 after receiving all requested information. (R-3.) The July 5, 2023 notice was appealed requesting an earlier effective date of September 1, 2022<sup>2</sup>.

The matter was scheduled for hearing on August 29, 2023, and October 6, 2023, but Petitioner requested adjournments. The parties appeared by phone on November 14, 2023 and advised that the facts were not in dispute so the hearing was adjourned and a schedule for Petitioner's proposed motion for summary decision was set. On January 2, 2024, Petitioner's representative filed a motion for summary decision and on January 8, 2024, Ocean County submitted its response. Petitioner did not file a reply. ID at 2.

The Administrative Law Judge (ALJ) found that Petitioner failed to prove that Ocean County erred in its decision to approve their application for Medicaid with an

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<sup>1</sup> March 15, 2023 application was Petitioner's third application for Medicaid benefits. Petitioner's two previous applications, dated October 18, 2022, and November 9, 2022, were denied but Petitioner did not appeal the denials.

<sup>2</sup> In their initial request for a hearing, Petitioner appealed the amount of the spousal resource allowance, but neither party presented any information or exhibits on this issue.

effective date of March 1, 2023. The ALJ also found that Petitioner failed to prove that the QIT was properly funded prior to March 2023 making Petitioner income eligible prior to March 1, 2023, and/or as early as September 1, 2022, pursuant to N.J.A.C. 10:71-2.2, -5.1, -5.4, and -5.6. ID at 9. The ALJ further found that even if the QIT had been properly funded prior to March 2023, Petitioner would only be eligible for three months of retroactive coverage, not for coverage as early as September 2022. ID at 5.

Based upon my review of the record, I hereby adopt the findings, conclusions, and recommended decision of the ALJ with regard to Petitioner's eligibility date.

The New Jersey Medicaid program is administered by DMAHS pursuant to the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.5. Through its regulations, DMAHS establishes "policy and procedures for the application process" N.J.A.C.10:71-2.2(b). To be financially eligible, the applicant must meet both income and resource standards. Income eligibility is based on an examination of all earned and unearned income which has or will be received during the month for which the application is made, beginning with the first day of such month. N.J.A.C. 10:71-5.2(b) (1). All income, whether in cash or in-kind, shall be considered in the determination of eligibility, unless such income is specifically exempt under the provisions of N.J.A.C. 10:71-5.3. The local county welfare agencies (CWA) evaluate Medicaid eligibility. N.J.S.A. 30:4D-7a; N.J.A.C.10:71-1.5, 2.2 (c).

An applicant who would otherwise be over-income may place excess income in a QIT also known as a "Miller Trust". New Jersey received federal authority to begin using QITs on December 1, 2014. The Miller Trust was created so that people who require care or disabled with excess income can still become eligible for Medicaid benefits. The DMAHS addressed this in Medicaid Communication No.14-15, dated December 19, 2014 (Med. Comm. No.14-15) which provided in part:

QIT are Trust documents tied to a special bank account. The primary function of a QIT is to disregard an individual's income above 300% of the Federal Benefit Rate (FBR). In order for this 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 amount of the income.

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.

Here, Petitioner established a QIT with TD Bank on September 1, 2022 because their income exceeds the income limit of \$2,742 for MLTSS. Petitioner provided a complete trust agreement to Ocean County on November 18, 2022. As shown on Schedule A of the QIT, the amount Petitioner sought to be excluded by the QIT was listed as Petitioner's pension and social security payment. ID at 4. Per the QIT transaction transcripts, until March of 2023, Petitioner only deposited their pension correctly into the QIT from September 2022 to the present. (R-4.) However, Petitioner failed to deposit their SSI into the QIT properly in 2022. In some months Petitioner deposited only half of

their SSI into the QIT account or deposited more than their SSI into the QIT account with additional resources such as cash from unnamed sources. It was not until March 2023 that Petitioner properly funded the QIT and deposited his entire SSI payment.

I agree with the ALJ that Petitioner failed to prove that QIT was properly funded until March of 2023. The funds designated for inclusion in the QIT, as set forth in Schedule A to the QIT document, and the funds actually deposited into the account, as confirmed by the QIT bank statements, must match.

Here, Petitioner chose to establish a QIT where it specifically directed that their pension and SSI. However, Petitioner failed to properly deposit their SSI into the QIT until March of 2023. The QIT transaction transcripts confirmed that Petitioner did not fund the QIT account as dictated by the terms of the trust prior March 1, 2023.

Thus, for the reasons set forth above and those contained in the Initial Decision, I hereby ADOPT the Initial Decision's conclusions. Ocean County correctly determined that the earliest eligibility date that can be given was March 1, 2023 as Petitioner did not properly fund the QIT until March 2023, the first month that the entire amount of pension and SSI were deposited into the QIT.

THEREFORE, it is on this 28th day of MAY 2024,

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