



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. HMA 14335-23

AGENCY REF. NO. N/A

C.W.,

Petitioner,

v.

MIDDLESEX COUNTY BOARD

OF SOCIAL SERVICES,

Respondent.

Gary B. Garland, Esq., for petitioner (Garland Law Offices, P.A., attorneys)

Carrie Flanzbaum, Human Services Specialist 3, for respondent, pursuant to
N.J.A.C. 1:1-5.4(a)(3)

Record Closed: May 28, 2025

Decided: June 6, 2025

BEFORE NICOLE T. MINUTOLI, ALJ:

STATEMENT OF THE CASE

Petitioner, C.W., applied for Aged, Blind, and Disabled (ABD) Medicaid on July 19, 2023. In the month preceding the application, C.W.'s attorney-in-fact wrote and sent two personal checks from C.W.'s bank account to the long-term care facility in which C.W. was residing. The checks were lost in the mail and never cashed. Respondent Middlesex

County Board of Social Services (CSSA) denied C.W.'s application, alleging that, at the time of application and due to the two uncashed checks, C.W.'s resources exceeded the eligibility limit. Should the amount of the two uncashed checks be counted towards C.W.'s total resources? No. Where the checks were remitted and sent, though uncashed, they should not be counted towards C.W.'s total resources pursuant to N.J.A.C. 10:71-4.5(a)(2).

PROCEDURAL HISTORY

C.W. applied for ABD Medicaid on July 19, 2023. On December 7, 2023, the CSSA denied C.W.'s application, alleging she had greater resources than permitted. Petitioner timely appealed, and on December 28, 2023, the Division of Medical Assistance and Health Services (DMAHS) transmitted the matter to the Office of Administrative Law (OAL) for a determination as a contested case under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

On May 28, 2025, after numerous pre-hearing conference calls, I conducted a telephonic hearing utilizing a toll-free call-in number. At the hearing, both parties offered testimony and documents, and at its conclusion, the record was closed.

FINDINGS OF FACT

Based on the testimony adduced and my assessment of its credibility, together with the documents the parties submitted and my evaluation of their sufficiency, I **FIND** the following as **FACT**:

1. C.W. entered a long-term care facility (the Facility) on or about February 1, 2023.
2. C.W. has a Qualified Income Trust (QIT) consistent with N.J.A.C. 10:71-4.11. During the relevant time period set forth herein, C.W. receives monthly income of \$9,024.48, which is derived from Social Security Income

(SSI) (\$634.31 per month) and annuity income (\$8,390.17 per month).¹
(P-9.)

3. Beginning February 1, 2023, and continuing each month thereafter, C.W.'s daughter drafted two checks to the Facility. She sent them via regular mail to the Facility's Central Business Office (CBO) in Union, N.J.
4. The Facility did not send monthly invoices or statements to either C.W., her daughter, J.A., or C.W.'s Designated Authorized Representative (DAR).
5. On June 7, 2023, C.W.'s daughter sent two checks to the Facility CBO via regular mail, one for \$2,204.27 and the second for \$8,930.17 (check numbers 2542 and 2543, respectively). (P-1.)
6. One month later, on July 7, 2023, C.W.'s daughter sent another two checks to the Facility CBO via regular mail, one for \$2,204.27 and the second for \$8,930.17 (check numbers 2544 and 2545, respectively). (P-2.)
7. The following month, on August 3, 2023, C.W.'s daughter sent another two checks to the Facility CBO via regular mail, one for \$2,204.27, and the second for \$8,930.17 (check numbers 2546 and 2547, respectively). (P-3.)
8. On September 9, 2023, C.W.'s daughter sent another two checks to the Facility CBO via regular mail, one for \$2,204.27 and the second for \$8,930.17 (check numbers 2548 and 2549, respectively). (P-4.)
9. On October 7, 2023, C.W.'s daughter sent another two checks to the Facility CBO via regular mail, one for \$2,204.27 and the second for \$8,930.17 (check numbers 2550 and 2551, respectively). (P-5.)

¹ The amount of C.W.'s monthly income is not at issue in this matter, nor is the existence of a QIT.

10. On July 19, 2023, C.W., through her DAR, applied for Medicaid benefits. (R-1.)
11. On September 15, 2023, the CSSA sent C.W. a detailed request for information (RFI), seeking, among other things, C.W.'s banking and asset information. (R-2.)
12. On September 27, 2023, the DAR uploaded documents in response to the September 15, 2023, RFI.
13. In preparing the response to the RFI, C.W.'s daughter first realized that the June checks (numbers 2542 and 2543) were not cashed.
14. On October 18, 2023, at C.W.'s daughter's request, the DAR notified the Facility that checks 2542 and 2543, which were remitted to the Facility in early June 2023, were not cashed. (P-6.)
15. Following notification, the Facility advised the DAR on October 18, 2023, that there was no record of checks 2542 and 2543, and an open balance remained for those two checks. (P-6.)
16. On October 23, 2023, C.W.'s daughter emailed the Facility, attaching copies of checks 2542 and 2543. (P-7.)
17. On October 23, 2023, due to the outstanding balance, C.W.'s daughter sent checks 2552 and 2553, totaling \$2,204.47 and \$8,930.17, respectively, to replace the unreceived checks from June 7, 2023. (P-8.)
18. On November 10, 2023, C.W.'s daughter sent two checks to the Facility CBO via regular mail, one for \$2,204.27 and the second for \$8,930.17 (check numbers 2554 and 2555, respectively). (P-8.)
19. On December 7, 2023, the CSSA notified C.W. that her Medicaid application was denied because her countable resources exceeded the \$2,000

program resource limit. Specifically, as of July 1, 2023, C.W.'s Bank of America checking account ending in 9688, the one from which the aforementioned checks were drawn, had a value of \$12,763.23. (R-3.)

20. On December 12, 2023, C.W. appealed the CSSA's denial, explaining that the amount of the two checks remitted to the Facility from C.W.'s QIT account in June 2023 but not cashed by the Facility, should not be counted as C.W.'s countable resources for Medicaid ABD qualification purposes.

LEGAL ANALYSIS AND CONCLUSIONS

The Medicaid program is a cooperative Federal-State venture established as Title XIX of the Social Security Act. 42 U.S.C. § 1396 et seq. It is designed to provide medical assistance to persons whose income and resources are insufficient to meet the costs of necessary care and services and is intended to be a funding of last resort for those in need. L.M. v. Div. of Med. Assistance & Health Servs., 140 N.J. 480, 484 (1995) (citations omitted); see N.J.S.A. 30:4D-2. New Jersey's Medicaid program derives its authority from the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1 to -19.5, and the regulations promulgated thereunder. See generally N.J.A.C. 10:49-1.1 et seq.

Generally, for an applicant to be deemed financially eligible for long-term care, they must be found to be both resource and income eligible. N.J.A.C. 10:71-4.1(a) ("The resources criteria and eligibility standards of this section apply to all applicants and beneficiaries."). An applicant's "[r]esource eligibility is determined as of the first moment of the first day of each month." N.J.A.C. 10:71-4.1(e). A "resource" is "defined as any real or personal property which is owned by the applicant . . . and which could be converted to cash to be used for his or her support and maintenance." N.J.A.C. 10:71-4.1(b).²

² A resource must also be "available" for purposes of an eligibility determination. N.J.A.C. 10:71-4.1(c). A resource is available if "[t]he person has the right, authority or power to liquidate real or personal property or his or her share of it[.]" Ibid. When evaluating an applicant's available resources, "[t]he CSSA shall verify the equity value of resources through appropriate and credible sources." N.J.A.C. 10:71-4.1(d). Funds which are the subject of a written check are no longer considered available resources to the applicant. See N.J.A.C. 10:71-4.1(e)(2) (observing that funds for which a draft is written are considered "committed" and therefore no longer countable as a resource to the applicant).

As it relates to checking accounts, both N.J.A.C. 10:71-4.1(e)(2) and N.J.A.C. 10:71-4.5(b)(2) provide guidance. Pursuant to N.J.A.C. 10:71-4.1(e)(2):

If, prior to the first moment of the first day of the month, the applicant or beneficiary has drawn a check (or equivalent instrument) on a checking or similar account, the amount of such check shall reduce the value of the account. The value of such accounts shall not be reduced by any unpaid obligations for which funds have not already been committed by the drafting of a check.

- i. When checks have been drawn on an account, the CSSA shall review the appropriate account registers or check stubs to ascertain the actual balance as of the first moment of the first day of the month. Full documentation of such circumstances is required.

[N.J.A.C. 10:71-4.1(e)(2). (emphasis added).]

Similarly, as set forth in N.J.A.C. 10:71-4.5(a):

For eligibility in the Medicaid Only Program, total countable resources are subject to the following limits. (See N.J.A.C. 10:71-4.1(b) regarding definition of resources, N.J.A.C. 10:71-4.2 regarding countable resources, and N.J.A.C. 10:71-4.8 regarding resources of a couple when one member is applying for Medicaid for institutional services.”

1. Resource eligibility is determined as of the first moment of the first day of the month. Changes in the amount of countable resources subsequent to the first moment of the first day of the month shall not affect eligibility.
2. In the case of checking accounts, the balance as of the first moment of the first day of the month shall be reduced by the amount of any checks which have been drawn on the account but which have not yet cleared the financial institution.

[N.J.A.C. 10:71-4.5(a) (emphasis added).]

At present, New Jersey's limit on countable resources for single-person Medicaid ABD qualification is \$2,000. N.J.A.C. 10:71-4.5(c) ("Resource maximum for an individual; participation in the program shall be denied or terminated if the total value of an individual's resources exceeds \$2,000."). Put simply, here, if C.W.'s countable resources on July 1, 2023, in her QIT account exceeded \$2,000, then and in that event, she would not qualify.³

Under the facts presented, the conclusion is unusually clear. Here, checks were remitted (written) and sent to the Facility on a regular, monthly basis from C.W.'s QIT account by her daughter. This process began on February 1, 2023, and continued without interruption thereafter, with monthly checks being drafted and sent to the Facility in numeric pairs. There is no gap in the sequence, with checks running in monthly twos through check numbers 2552/2553 in October 2023, when C.W.'s daughter wrote checks to the Facility to cover the June 2023 checks that the Facility either did not receive or were lost. The fact that the Facility did not send invoices or monthly statements to C.W. (or her family) merely underscores the possibility that she may not have been aware of the June 2023 uncashed checks.

For purposes of completion, while N.J.A.C. 10:71-4.1(e)(2) and N.J.A.C. 10:71-4.5(a)(2) are explicit—for asset qualification, where checks are written, their amounts should reduce the account balance—one can envision a circumstance where a check was written but no attempt was made to transfer or transmit it to a payee. It is difficult to surmise that, in such an instance and under the relevant code provisions, the amount of that or those checks would reduce an available resource balance.

However, and in this instance, I **FURTHER FIND** that no such event, trickery, malevolence, or intent occurred in this matter. Rather, the record establishes that C.W.'s daughter wrote and sent the two checks in question, checks 2542 and 2543. Here, it was the reasonable effort that was required and with which C.W.'s daughter complied. The

³ The sole issue before me is whether the CSSA's denial of C.W.'s July 19, 2023, Medicaid ABD application was proper based upon the claim that the resources in C.W.'s QIT account on July 1, 2023, exceeded the limit set forth in N.J.A.C. 10:71-4.5(c).

evidence adduced leaves little doubt that is what occurred, and no contrary evidence was received or reported.

When the value of checks 2542 and 2543 is applied to C.W.'s July 1, 2023, bank account balance pursuant to N.J.A.C. 10:71-4.1(e) and N.J.A.C. 10:71-4.5(a), it lowers to a point below the \$2,000 resource threshold. Accordingly, I **CONCLUDE** that the CSSA erroneously denied C.W.'s July 19, 2023, Medicaid ABD application for exceeding resource eligibility pursuant to N.J.A.C. 10:71-4.5(c).

ORDER

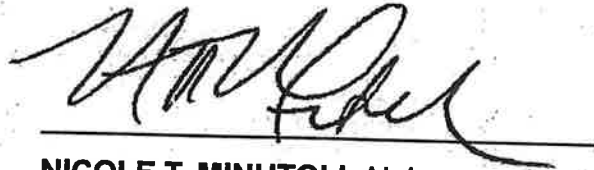
It is hereby **ORDERED** that the decision of the Middlesex County Board of Social Services denying C.W.'s Medicaid ABD application is **REVERSED**. It is further **ORDERED** that this matter be remanded to the Middlesex County Board of Social Services to complete the processing of C.W.'s Medicaid application.

I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. § 1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES** cannot reject or modify this decision.

If you disagree with this decision, you have the right to seek judicial review under New Jersey Court Rule 2:2-3 by the Appellate Division, Superior Court of New Jersey, Richard J. Hughes Complex, PO Box 006, Trenton, New Jersey 08625. A request for judicial review must be made within 45 days from the date you receive this decision. If you have any questions about an appeal to the Appellate Division, you may call (609) 815-2950.

June 6, 2025

DATE



NICOLE T. MINUTOLI, ALJ

Date Received at Agency:

Date Mailed to Parties:

APPENDIX

Witnesses

For petitioner:

Bonnie Henagen, Designation of Authorized Representative

For respondent:

Carrie Flanzbaum, Human Services Specialist 3

Exhibits

For petitioner:

- P-1 Copies of checks numbers 2542 and 2543
- P-2 Bank of America July 2023 statement and copy of check numbers 2544 and 2545
- P-3 Bank of America August 2023 statement and copy of check numbers 2546 and 2547
- P-4 Bank of America September 2023 statement and copy of check numbers 2548 and 2549
- P-5 Bank of America October 2023 statement and copy of check numbers 2550 and 2551
- P-6 Email exchange beginning October 18, 2023, between Bonnie Henagen and Judy Alusik
- P-7 October 23, 2023 email from C.W.'s daughter to Judy Alusik
- P-8 Bank of America November 2023 statement and copy of check numbers 2552, 2553, 2554, and 2555
- P-9 C.W.'s Qualified Income Trust

For respondent:

- R-1 Application, dated July 19, 2023

R-2 Requests for Information, dated September 15, 2023

R-3 Eligibility Letter, dated December 7, 2023

R-4 Bank Statements as of July 1, 2023