



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. HMA 06310-25

AGENCY REF. NO. N/A

**J.G.;**

Petitioner,

v.

**MIDDLESEX COUNTY BOARD**

**OF SOCIAL SERVICES,**

Respondent.

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**John Callinan, Esq.,** for petitioner

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

Record Closed: June 13, 2025

Decided: July 7, 2025

**BEFORE NICOLE T. MINUTOLI, ALJ:**

**STATEMENT OF THE CASE**

On May 1, 2024, petitioner J.G. filed an application seeking Medicaid benefits. On March 20, 2025, respondent Middlesex County Board of Social Services (MCBSS) denied petitioner's Medicaid application, finding that he exceeded the income limit as outlined in N.J.A.C. 10:71-5.1. In doing so, the MCBSS determined that J.G.'s qualified income trust

(QIT) established on November 30, 2023, was not properly funded. Was J.G. income eligible as of May 1, 2024? Yes. Where the funds outlined in Schedule A and the funds deposited into the account match, the QIT is considered properly funded.

### **PROCEDURAL HISTORY**

By letter dated March 20, 2025, the MCBSS notified petitioner that he was ineligible for Medicaid as of May 1, 2024, due to exceeding the income limit under N.J.A.C. 10:71-5.1. Petitioner filed a request for a fair hearing. The Division of Medical Assistance and Health Services (DMAHS) transmitted the matter to the Office of Administrative Law (OAL), where on April 10, 2025, it was filed to be heard as a contested case under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

A telephone hearing was held on June 13, 2025, with a call-in number. Both parties offered testimony and documents, and the record was closed.

### **FINDINGS OF FACT**

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

On November 30, 2023, J.G.'s daughter L.G.-B. established a QIT for her father by filling out the QIT template available on the DMAHS website. (R-D.) Under the section entitled "Trust Funding," L.G.-B. listed "the income sources to be placed in the Trust" as "Social Security \$1627.00" and "Pension \$1159.60." (*Ibid.*) The DMAHS's QIT template also includes a Schedule A, or "Schedule of Assets," form on which a trustee must list the

"[f]unds being deposited into" the QIT. See Medicaid Commc'n No 14-15 (Dec. 19, 2014), [www.nj.gov/humanservices/dmahs](http://www.nj.gov/humanservices/dmahs). The template's Schedule A looks like this:

### SCHEDULE A

Funds being deposited into Qualified Income Trust:

<u>Source</u>	<u>Amount</u>
Social Security	
Pension	
Other	
Total:	

[Ibid.]

For J.G.'s Schedule A, L.G.-B. circled "Pension" and, under "Amount," wrote "\$1159.60." (R-D.) She did not circle "Social Security" on the prepopulated form and left blank the space provided under "Amount" for "Social Security." (Ibid.) For "Total," L.G.-B. wrote "\$1159.60," which corresponded with the amount of J.G.'s pension income. (Ibid.)

L.G.-B. listed Bank of America as the location of J.G.'s QIT bank account and, beginning on May 9, 2024, she deposited J.G.'s pension income into the QIT account each month. (Ibid.; R-E.)

L.G.-B. executed the QIT using the template available on the DMAHS website. She mistakenly thought she had to list all her father's income sources under the "Trust Funding" section, so she included both her father's pension and Social Security income. "Social Security" is listed on J.G.'s Schedule A simply because "Social Security" is prepopulated on the DMAHS's QIT template. She intended only to include J.G.'s pension income in the QIT account because that is all that needed to be included to ensure that J.G.'s countable income fell below the applicable income standard. Thus, on Schedule A she circled only "Pension" and, under "Amount," wrote "\$1159.60"; did not circle "Social Security"; and left blank the space provided under "Amount" for "Social Security." She wrote "\$1159.60," which corresponded with the amount of J.G.'s pension income, as the "Total" amount of money going into J.G.'s QIT account. Finally, beginning in May 2024, she deposited only J.G.'s pension income into his QIT account each month. (R-D.)

On May 1, 2024, L.G.-B. filed with the MCBSS a Medicaid application on her father's behalf. (R-A.) By notice dated March 20, 2025, the MCBSS notified L.G.-B. that J.G. was ineligible for Medicaid as of May 1, 2024, due to excess income under N.J.A.C. 10:71-5.1. (R-B.) The MCBSS determined that J.G. did not have a valid QIT because his QIT included both his pension and Social Security as funding sources, but L.G.-B. deposited only his pension income into the QIT account. Thus, the MCBSS did not disregard his Social Security income, which had increased to \$1,849 each month, or his pension income of \$1,159.60, and his total countable income of \$3,008.60 put him over the applicable income limit of \$2,829. (R-B.)

### **DISCUSSION AND CONCLUSIONS OF LAW**

In December 2014, the DMAHS announced that New Jersey would allow Medicaid applicants with excess income to use QITs to qualify for the Medicaid Only program. Medicaid Communication No. 14-15 (December 19, 2014). Authorized by federal law, "[t]he primary function of a QIT is to disregard an individual's income above 300% of the Federal Benefit Rate."<sup>1</sup> Ibid. The excess income "MUST be deposited monthly into the QIT bank account." Ibid. A QIT "may be approved" if, among other requirements, the "QIT is established, funded and approved by the [county social services agency] to ensure compliance with federal regulations." Ibid.

In other words, a QIT is a legal instrument that allows individuals who would otherwise be income ineligible to shelter certain income from consideration during the application process. Ibid. But to avail oneself of the protections afforded by a QIT, the individual who chooses to create a QIT must follow the requirements for establishing and funding a QIT. Ibid. An invalid QIT leaves excess income unprotected and countable for a Medicaid eligibility determination. Ibid.

As such, it is paramount that "[t]he funds designated for inclusion in the QIT, as set forth in Schedule A to the QIT document, and the funds actually deposited into the

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<sup>1</sup> In 2023, the income limit for Medicaid Managed Long Term Services and Supports was \$2,742. Medicaid Communication No. 23-02 (February 22, 2023).

account, as confirmed by the QIT bank statements, must match.” J.M. v. Div. of Med. Assistance & Health Servs., 2024 N.J. AGEN LEXIS 404, \*\*4–5 (May 28, 2024). In J.M., for example, the applicant’s QIT listed his pension and Social Security income as the funding sources, and Schedule A included the specific amounts of those two sources of income as the “[f]unds being deposited” into the QIT account; thus, he did not establish a valid QIT and become income eligible until he funded his QIT as dictated by the QIT’s Schedule A by depositing both income sources, rather than just his pension income, into the QIT account. Similarly, in S.F. v. Division of Medical Assistance & Health Services, OAL Dkt. No. HMA 09222-24, Final Decision (Feb. 18, 2025), in which the applicant listed her workers’ compensation and annuity payments as the funding sources for her QIT, and included on Schedule A the specific workers’ compensation and annuity income amounts to be deposited in the QIT account, the applicant “did not become financially eligible for Medicaid benefits until December 1, 2023,” when she placed both forms of income in her QIT account, rather than November 1, 2023, when she only deposited the workers’ compensation money into the QIT account.

There have, however, been cases in which an imperfectly drafted QIT document did not render a Medicaid applicant income ineligible. In K.B. v. Middlesex County Board of Social Services, HMA 09839-16, Initial Decision (Feb. 3, 2017), adopted, Final Decision (May 1, 2017), <https://njlaw.rutgers.edu/collections/oal/>, a Medicaid applicant’s “QIT was properly set up and funded” despite an “issue [with the] language in the [QIT].” K.B., Final Decision at 2. In K.B., “[t]he QIT document specified two sources of income, as follows: ‘Social Security (Nursing Home is taking)’ and ‘Pension - \$322.07.’” K.B., Initial Decision, <https://njlaw.rutgers.edu/collections/oal/>. The county social services agency (CSSA) determined that the applicant was income ineligible for Medicaid, concluding that “the QIT was not properly funded since all income sources listed on the document were not being deposited directly into the QIT account.” Ibid. The applicant, however, prevailed on appeal because it was found that “it is clear that the drafter of the QIT had no intention of creating a trust funded by both social security income and pension income” and “[t]he document clearly so states, when it expresses that social security payments are not going into the trust, but rather directly to the nursing home.” Ibid. First, because the DMAHS’s QIT template specifically includes “Social Security,” “the form invites the drafter to address social security income, which this drafter did in an honest and forthright fashion; by stating

that social security income was not part of the trust, but rather, 'nursing home taking that money.'" Ibid.

Second, a QIT is meant to protect income that would otherwise put an applicant over the income limit:

Here, the social security income was not what placed K.B. over the income limit for eligibility, it was his pension income. This is clear because once he created a QIT that sheltered only his pension income his application was promptly approved. K.B. never needed to have placed the social security income in trust to establish income eligibility, and thus should not have been penalized for mentioning that income in the QIT document, which to reiterate, he did only at DMAHS's prompting. Simply put, K.B. was income eligible once the QIT was funded with his pension payments. Although the document perhaps was inartfully drafted, enough moneys had been placed in trust to put K.B. under the \$2199 income limit, thus making him eligible for Medicaid.

[Ibid.]

Further, in E.G. v. Division of Medical Assistance & Health Services, HMA 10386-23, Final Decision (Mar. 6, 2024), <https://njlaw.rutgers.edu/collections/oal/>, a QIT drafting error also did not necessarily result in an invalid QIT that left the applicant's excess income unprotected. In that case, "[t]he only funding source listed on the 'Trust Funding' section of the QIT document was 'Social Security,'" and "[t]here was no Schedule A attached to the QIT document submitted with the [Medicaid] application." The applicant later submitted "two different Schedules A that listed both Social Security and pension as funding sources." While the CSSA "contended that Petitioner's failure to properly include his pension as a funding source on the QIT document, despite it being listed in a later submitted Schedule A, rendered the QIT as unverified" and "resulted in Petitioner being over the income eligibility limit."

On appeal, the Assistant Commissioner for the DMAHS disagreed, stating:

As long as the Schedule A lists the sources of funding to be deposited into the QIT, those funding sources are deposited

into the QIT in the month they are received, and the Schedule A was amended before the updated sources of funding were deposited in the QIT bank account, the QIT may be determined to be properly funded. [And] . . . a new QIT [is not] necessarily required to ensure the QIT was properly funded.<sup>2</sup>

Thus, in E.G., the fact that “[t]he only funding source listed on the ‘Trust Funding’ section of the QIT document was ‘Social Security,’” while the Schedule A “listed both Social Security and pension as funding sources,” did not invalidate the QIT. Instead, what matters most is whether “the Schedule A lists the sources of funding to be deposited into the QIT, those funding sources are deposited into the QIT in the month they are received, and the . . . sources of funding were deposited in the QIT bank account[.]” If a Medicaid applicant follows these steps, “the QIT may be determined to be properly funded.”

Here, J.G. had a valid QIT that sheltered his excess income when he applied for Medicaid. First, unlike J.M. and S.F., L.G.-B. did not list both J.G.’s Social Security and pension income on the QIT’s Schedule A and fail to deposit both sources into the QIT account; instead, she only listed J.G.’s pension income on Schedule A and acted accordingly by depositing only J.G.’s pension income into the QIT account in May 2024.

Second, like K.B., and as clarified by the DMAHS in E.G., L.G.-B.’s error in listing J.G.’s Social Security income in the “Trust Funding” section did not invalidate the QIT. That is, J.G.’s Schedule A lists only his pension income and, beginning in May 2024, L.G.-B. deposited only the pension income into the QIT account. The fact that the “Trust Funding” section lists both J.G.’s income sources is not fatal to J.G.’s income eligibility. And as in K.B., the DMAHS’s QIT template confused L.G.-B. When she filled in J.G.’s financial information, L.G.-B. intended to include only J.G.’s pension income in the QIT account because his Social Security income, by itself, would not have put him over the income limit.

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<sup>2</sup> Based on the available facts, however, the DMAHS could not determine the applicant’s eligibility, so the Assistant Commissioner remanded the matter to the OAL “to give Petitioner the opportunity to provide credible documentary evidence that establishes when the Schedules A were created and what sources of funding were used to fund the QIT during each month where eligibility is sought, including when the pension payments began to be deposited into the QIT with Petitioner’s monthly Social Security payment.”

As L.G.-B. testified, "Social Security" is listed on J.G.'s Schedule A because "Social Security" is prepopulated on the DMAHS's QIT template. She intended to include only J.G.'s pension income. Moreover, she mistakenly included both sources of her father's income under the "Trust Funding" section, but thought she had made clear on Schedule A that only the pension income would go in the QIT account. Finally, beginning in May 2024, when she deposited only J.G.'s pension income into his QIT account, L.G.-B. established a valid QIT for J.G., thereby following the DMAHS's repeated instruction that "[t]he 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."

For these reasons, I **CONCLUDE** that as of May 1, 2024, J.G. had a valid QIT, and therefore I **CONCLUDE** that J.G. was income eligible for Medicaid as of May 2024.

### **ORDER**

For the reasons described above, it is hereby **ORDERED** that the decision of the Middlesex County Board of Social Services denying petitioner's application for Medicaid is hereby **REVERSED** and that the matter is **REMANDED** to the Middlesex County Board of Social Services for processing of petitioner's Medicaid application consistent with this **ORDER** and pursuant to the New Jersey Administrative Code provisions.

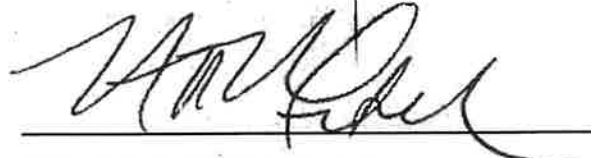
I **FILE** this initial decision with the **ASSISTANT COMMISSIONER OF THE DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**. This recommended decision is deemed adopted as the final agency decision under 42 U.S.C. § 1396a(e)(14)(A) and N.J.S.A. 52:14B-10(f). The **ASSISTANT COMMISSIONER OF THE DIVISION 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.

July 7, 2025

DATE



**NICOLE T. MINUTOLI, ALJ**

Date Record Closed:

June 13, 2025

Date Filed with Agency:

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Date Sent to Parties:

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NTM/tc

## APPENDIX

### Witnesses

For petitioner

None

For respondent

Kurt Eichenlaub, Human Services Specialist 3

### Exhibits

For petitioner

None

For respondent

R-A Application, dated May 1, 2024

R-B Eligibility letter, March 20, 2025

R-C Verification of Income

R-D Qualified Income Trust

R-E Bank of America statements