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

S.F.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE :

AND HEALTH SERVICES AND :

MONMOUTH COUNTY DIVISION :

OF SOCIAL SERVICES, :

RESPONDENTS. :

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 09222-24

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), 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 February 18, 2025, in accordance with an Order of Extension¹.

This matter arises from Monmouth County Division of Social Services' (Monmouth County) June 5, 2024 determination that, but for a three-month transfer of resources penalty, Petitioner was eligible for Medicaid benefits beginning on December 1, 2023. ID at 2. The Petitioner was eligible for "Ancillary Services" from December 1, 2023, to February 29, 2024, and "Granted Full MLTSS Services" as of March 1, 2023, when the transfer penalty period ended. Petitioner submitted the initial Medicaid application on November 28, 2023. Ibid. The Petitioner appealed the determination, asserting that an earlier eligibility date of November 1, 2023 should be granted. Based upon my review of the record, I hereby ADOPT the findings and conclusions of the Administrative Law Judge (ALJ) denying the Petitioner's appeal to amend the eligibility date to November 1, 2023.

N.J.A.C. 10:71-4.5(c) states that participation in the Medicaid Only program will be denied if the resources of an individual exceed \$2,000. In determining resource eligibility in accordance with N.J.A.C. 10:71-4.5(c), a resource must be "available." A resource shall be considered available to an individual when: "The person has the right, authority or power to liquidate real or personal property or his or her share of it;..." N.J.A.C.10:71-4.1(c).

Resource eligibility is determined as of the first moment of the first day of the month. 20 C.F.R. § 416.1207(a) and N.J.A.C. 10:71-4.1(e). Additionally, any resource that is not specifically excluded by regulation "shall be considered a countable resource

¹ The Initial Decision states that recommended decision of the Office of Administrative Law, should be deemed adopted as the Final Agency Decision, pursuant to 42 U.S.C. § 1396(e)(14)(A), N.J.S.A. 52:14B-10(f), and N.J.A.C. 1:1-18.9, upon its filing with the Division of Medical Assistance and Health Services on January 15, 2025. However, the Initial Decision was rendered under a procedural deficiency, unknown to the OAL at the time of issuing the Initial Decision.

for the purpose of determining Medicaid Only eligibility.” N.J.A.C. 10:71-4.2(a). N.J.A.C. 10:71-4.1(e)2 states that 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.” That section goes on to caution that “[t]he 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.” N.J.A.C. 10:71-4.1(e)2. As set forth in N.J.A.C. 10:71-4.1(e)2, if a check is drawn on an account prior to the first day of the month, the check shall reduce the value of the account as of the first of the month following the issuance of the check. Moreover, “[w]hen checks have been drawn on an account, the CWA 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.” Medicaid law requires [the agency] to follow “the money trail throughout the relevant month in order to determine the end game of the check drawn.” H.M. v. Union Cty. Bd. Of Soc. Svs., 2016 N.J. Agen LEXIS 1246 (December 16, 2016) Full documentation of such circumstances is required.” N.J.A.C. 10:71-4.1(e)2i.

In December 2014, DMAHS announced that New Jersey would allow Medicaid applicants with excess income to use Qualified Income Trusts (QIT) to qualify for the Medicaid Only program. Medicaid Communication No. 14-15 (December 19, 2014). See 42 U.S.C. §1396p(d)(4)(B). By placing the excess income in a QIT, the County Welfare Agency (CWA) is able to exclude that amount from the income limit. However, according to Medicaid Communication No. 14-15:

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.

A QIT "may be approved" if, among other requirements, the "QIT is established, funded and approved by the [county welfare agency] to ensure compliance with federal regulations." Ibid. A QIT must be properly funded in order for any excess income to be disregarded in an eligibility determination. In J.M. v. Div. of Med. Assistance & Health Servs., 2024 N.J. AGEN LEXIS 404 (May 28, 2024), DMAHS upheld a county welfare agency's determination that a Medicaid applicant did not become eligible for Medicaid MLTSS until he funded his QIT as dictated by the terms of the trust document.

The Petitioner listed two sources of monthly income in their Medicaid application: (1) social security income in the amount of \$1, 579. 60 and (2) workers' compensation income in the amount of \$1,506.24. ID at 2. They also disclosed a QIT, listing themselves as the grantor, their daughter, J.B., as the trustee, and the State of New Jersey as the beneficiary. Ibid. Finally, the Petitioner disclosed an annuity they had purchased on November 3, 2023, in the amount of \$22, 635. 70. Ibid. Under the terms of the annuity agreement, which became effective on December 1, 2023, the Petitioner would receive three monthly payments of \$7, 545. 36, with a final payment on February 1, 2023.

The QIT document was signed by J.B., as "power of attorney" over S.F., on November 17, 2023. Ibid. The QIT provides under the section entitled, "Trust Funding," that the income sources to be placed in the trust are (1) "Worker's Compensation - New Jersey Manufacturers Insurance Company" and (2) "Unity Annuity Monthly Payment." Ibid. The QIT's Schedule A similarly lists the trust's funding sources as (1) the monthly workers' compensation payment of \$1, 506.24 and (2) the monthly annuity payment of

\$7, 545. 36, for a total monthly deposit of \$9,051. 60. Ibid. Schedule A also lists Provident Bank as the location of the trust bank account, an initial deposit amount of \$1,506.24, and an initial deposit date of November 27, 2023. Ibid.

The November 2023 statement for the trust account confirms a deposit of \$1,506.24 on November 27, 2023. Ibid. The bank statement also shows an "ending balance" of \$1, 506.24 on November 30, 2023. Ibid. The December 2023 trust account statement shows a "beginning balance" of \$1, 506.24; a check withdrawal of \$1, 506.24 on December 11, 2023; two deposits \$1, 506.24 and \$7, 545. 36, or a total of \$9, 051.60 - on December 26, 2023; and a check withdrawal of \$9, 051. 60 on December 29, 2023. The \$1, 506.24 check that was withdrawn on December 11, 2023, was dated November 29, 2023, and was issued to the Petitioner's nursing home. Ibid. The \$9,051 check that was withdrawn on December 29, 2023, was dated December 23, 2023, and also was issued to the nursing home.

In the Initial Decision, ALJ found that the Petitioner did not become financially eligible for Medicaid benefits until December 1, 2023, because in December, and not November, they funded the QIT account to include both the workers' compensation payment and the annuity payment as required by the trust document. I agree. The Petitioner's QIT and Schedule A listed funds designated for inclusion in the QIT, however the actual funds deposited in the account did not match the QIT documents, as only the worker's compensation payment was deposited in November 2023. As such, the QIT was not properly funded in November 2023 and the Petitioner is ineligible for Medicaid for that month.

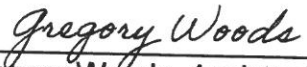
Thus, based upon the circumstances of this case and for the reasons set forth

above, I hereby ADOPT the Initial Decision in this matter.

THEREFORE, it is on this 18th day of February 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services