



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Director

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

J.E.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

PASSAIC COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL-DKT. NO. HMA-15778-15

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is June 9, 2016 in accordance with an Order of Extension. The Initial Decision in this matter was received on March 10, 2016.

The matter arises regarding Petitioner's Medicaid eligibility date. Petitioner applied for Medicaid benefits in April 2015. He was residing in a nursing home at that time. On June 30, 2015, after reviewing Petitioner's financial documentation, Passaic County determined Petitioner would need to establish a Qualified Income Trust (QIT) to be eligible for Medicaid benefits. Once the QIT was established, Passaic County determined Petitioner was eligible for benefits as of July 1, 2015. Petitioner is seeking benefits effective April 1, 2015. The matter turns on Petitioner's income eligibility for those months.

At the hearing, Petitioner's counsel argued that the effective date should have been April 1, 2015 rather than July 1, 2015 because Passaic County did not inform Petitioner upon application that he would need to establish a QIT. The Initial Decision amended the effective date of eligibility to May 1, 2015, finding that Passaic County should have notified Petitioner that a QIT would likely be needed prior to June 30, 2015. For the reasons that follow, I hereby REVERSE the Initial Decision and RETURN this matter to Passaic County for further review.

By way of background, as of December 1, 2014, New Jersey received federal authority to cease covering nursing home services under Medically Needy and permit applicants, who needed institutional level of care in a nursing facility, an AL facility or home and had income in excess of \$2,163 (currently \$2,199) to place the excess income in a Qualified Income Trust (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, Passaic County is able to exclude that amount from the income limit.

DMAHS had provided public information in the months leading up to this change, including setting up a dedicated email address for questions. Medicaid Communication


No. 14-15 (dated December 19, 2014). Additional information, including Frequently Asked Questions (FAQs), information about opening a QIT bank account and a QIT template, were originally posted to the DMAHS website in October 2014. See <http://www.state.nj.us/humanservices/dmahs/clients/mtrusts.html>. While I understand Passaic County should inform applicants of the need for a QIT as early as possible, there were multiple documents on the DMAHS website that clearly stated Petitioner was required to have a QIT to establish eligibility on any date after December 1, 2014. See OPM v. Richmond, 496 U.S. 414; 110 S. Ct. 2465 (1990) (Erroneous advice from a governmental employee regarding benefits cannot estop the government from denying benefits not permitted by law). That said, there is nothing in the record demonstrating Passaic County did not inform Petitioner of the need to establish a QIT as soon as it was aware one was needed or that Passaic County failed to meet its obligations pursuant to N.J.A.C. 10:71-2.2. Furthermore, the Petitioner, who was represented by counsel from the beginning of the Medicaid application process, was in the best position, at the earliest possible date, to know that he would need to establish a QIT to qualify for benefits.

As previously stated, the matter here turns on Petitioner's income eligibility for the months in question, which calls into question whether Petitioner needed to establish a QIT to qualify for benefits. The maximum income standard for 2014-2015 applicants was \$2,199. Income in excess of this amount would have to be placed in a QIT to be excluded from the income limit. The PR-1 Form submitted into evidence shows Petitioner's income is only \$2,081.97, which is below the maximum income standard. This issue is not raised by the Parties and is not made clear by the documents submitted.

THEREFORE, it is on this ^{2nd} day of JUNE 2016,

ORDERED:

That the Initial Decision reversing the denial of benefits is hereby REVERSED as set forth above and the matter is RETURNED to Passaic County to determine Petitioner's eligibility in accordance with this Final Agency Decision.



Meghan Davey, Director
Division of Medical Assistance
and Health Services