



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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MEGHAN DAVEY
Director

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

J.G.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
CAMDEN COUNTY BOARD OF
SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 14423-2015

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 May 20, 2016 in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt,

reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision in this matter was received on April 5, 2016.

The matter arises regarding Petitioner's Medicaid eligibility date. Petitioner applied for Medicaid benefits in March 2015. He was residing in a nursing home at that time. Camden County determined that Petitioner was eligible for benefits as of August 1, 2015. Petitioner is seeking benefits for June and July 2015. The matter turns on Petitioner's income eligibility for those months.

The Initial Decision upheld the August 2015 eligibility date, finding that the Petitioner was over resource in June and July 2015 due to the failure to put the income into the QIT. While I concur with that the August 1, 2015 eligibility date was correctly decided, this reasoning is incorrect. Petitioner had countable income of \$2,340.28 which exceeded the limit of \$2,199. It was the failure to deposit the income in the QIT during June and July 2015 that renders Petitioner ineligible.

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 assisted living 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, Camden County is able to exclude that amount from the income limit.

Income received during a calendar month is considered income for that entire month. N.J.A.C. 10:71-5.2(b)1. The unspent income in the following month counts towards resources. N.J.A.C. 10:71-4.1(c). Petitioner's income of \$2,340.28 renders

him ineligible. Unless and until he placed funds in excess of the \$2,199 amount into the QIT in June and July 2015, his income would be considered over the limit.

The statement that “the subsequent deposit of the June and July Income into the QIT would [not] have cured the situation” is incorrect. ID at 4. Petitioner’s executed QIT document specifically states that the income must either “deposited directly into the trust account or deposited in the trust account in the same month the income is received by the primary beneficiary” (emphasis added). R-1 at 33. The fact that the income was deposited in another account did not cause ineligibility. Rather, it was the fact that Petitioner did not have his income deposited in the QIT account until August 2015 that prevented eligibility from being established in June or July 2015.

Moreover, the frequently asked questions (FAQs) that are posted regarding QITs explicitly state that income can be transferred into the QIT from another bank account receiving the income.

27. Is the income that is required to be deposited in the QIT required to be direct deposit or can the funds be deposited via a personal check from the account currently receiving the income?

The income does not have to be directly deposited into the QIT bank account.

See http://www.state.nj.us/humanservices/dmahs/clients/QIT_FAQs.pdf.

It was the failure to deposit the June and July income into the QIT at any time during those months that prevents Petitioner from being eligible for June or July 2015. Thus, I FIND that Camden County correctly determined Petitioner’s eligibility as August 1, 2015 for the reasons set forth above.

I do note Petitioner may be entitled to a deduction for his Pre-Eligibility Medical Expenses (PEME) for non-reimbursable and necessary medical expenses that occurred in the three months prior to Medicaid eligibility. The nursing facility may complete the


PEME Request Form and submit it to the Camden County Board of Social Services for consideration.

THEREFORE, it is on this ^{12th} day of MAY 2016,

ORDERED:

That the Initial Decision is hereby ADOPTED with regard to Petitioner's August 1, 2015 eligibility date due to excess income; and

That the Initial Decision is REVERSED as to the basis for the August 2015 eligibility date being predicated on excess resources.



Meghan Davey, Director
Division of Medical Assistance
and Health Services