



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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

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| L.S., | : | |
| | : | |
| PETITIONER, | : | ADMINISTRATIVE ACTION |
| | : | |
| v. | : | FINAL AGENCY DECISION |
| | : | |
| DIVISION OF MEDICAL ASSISTANCE | : | OAL DKT. NO. HMA 14709-2015 |
| | : | |
| AND HEALTH SERVICES AND | : | |
| | : | |
| ATLANTIC COUNTY BOARD OF | : | |
| | : | |
| SOCIAL SERVICES, | : | |
| | : | |
| RESPONDENTS. | : | |

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 April 28, 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 March 14, 2016.

The matter arises regarding Petitioner's Medicaid eligibility date. Petitioner applied for Medicaid benefits in July 2015. He was residing in a nursing home at that time. In August 2015 he transferred to a nursing home operated by the Veterans' Administration that is not covered by Medicaid. All told his income was \$2,490.83. R-1. Atlantic County determined that Petitioner was eligible for benefits as of August 1, 2015. Petitioner is seeking benefits for July 2015. The matter turns on Petitioner's income eligibility for July 2015.

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, Atlantic County is able to exclude that amount from the income limit.

The Initial Decision upheld the August 2015 eligibility date, finding that the Petitioner was over resource in July 2015 due to the failure to put the income into the QIT. While I concur with that the eligibility date was correctly decided, this reasoning is incorrect. Petitioner had countable income that exceeded the limit in July 2015 which prohibits Medicaid eligibility from being established that month. It was the failure to deposit the income in the QIT during July 2015 that renders Petitioner ineligible.

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 \$2,490.83 exceeds the income limit of \$2,199. However, had Petitioner placed those funds in excess of

that amount into the QIT prior to the end of July, his income would be considered under the limit.

The statement that “the subsequent deposit of the July Income into the QIT would [not] have cured the situation” is incorrect. ID at 3. 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 10. The fact that the income was deposited in another account did not cause ineligibility. Rather, as Atlantic County summarized, 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 July 2015. See bank statements at R-1 at 7-8.

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.

28. Can income be redirected to the facility rather than the trust each month if this is where the income will end up anyway?

No, the income over \$2,199 must be deposited in the QIT bank account each month and then the cost share is paid to the facility. Only income inside the QIT bank account can be disregarded for Medicaid eligibility.

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

It was the failure to deposit the July income into the QIT at any time during the month of July that prevents Petitioner from being eligible for July 2015. Thus, I FIND

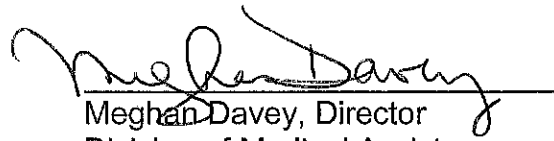
that Atlantic County correctly determined Petitioner's eligibility as August 1, 2015 for the reasons set forth above.

THEREFORE, it is on this ^{14th} day of APRIL 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 eligibility date being predicated on excess resources.


Meghan Davey, Director
Division of Medical Assistance
and Health Services