



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P.O. Box 712
Trenton, NJ 08625-0712

CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

J.S.,

PETITIONER,

v.

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

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 0046-2017

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. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is May 4, 2017 in accordance with an Order of Extension.

The matter arises regarding the December 17, 2016 outcome letter stating that Petitioner's Medicaid application was approved as of August 1, 2016 but subject to a transfer penalty of 118 days. Petitioner is not contesting the penalty but argues that he was eligible since May 2016 under retroactive benefits.

The issue in the matter is Petitioner's funding of the Qualified Income Trust (QIT). Petitioner income is \$4,814. He receives \$2,037 in Social Security, a Second Injury Fund pension of \$471 and another Second Injury Fund Pension of \$2,305. This last pension is paid in bi-weekly amounts of \$1,064.<sup>1</sup> Petitioner set up his QIT to receive his Social Security check and one of the bi-weekly checks.

Cumberland County found that all the pension checks from the second pension needed to be deposited into the QIT. This was done beginning in November 2016. Cumberland established eligibility as of that month and granted three months retroactive eligibility. The ALJ affirmed this determination.

For the reasons that follow I hereby REVERSE the Initial Decision and RETURN the matter to Cumberland County for further action. The bi-weekly checks should be treated as full checks for purposes of depositing them into the QIT.

According to the Second Injury Fund, these bi-weekly payments are paid every other Friday. See [http://lwd.dol.state.nj.us/labor/forms\\_pdfs/wc/pdf/scf-103.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/wc/pdf/scf-103.pdf). What becomes the problem is months have five Fridays instead of four. In those months, Petitioner receives three checks during the calendar month. This amount counts toward eligibility "[w]hen you receive it or when it is credited to your account or set aside for your use." 20 C.F.R. § 416.1121(a). In those months when only one of the three checks

---

<sup>1</sup> Because the payments are bi-weekly, the monthly amount is calculated differently. See 20 CFR § 408.224 and N.J.A.C. 10:71-5.2.

was deposited, Petitioner would have income exceeding the income limit outside of the QIT (\$1,064 x 2 + \$471). The record only shows deposits to the QIT. Petitioner needs to show actual checks or direct deposit dates in order to demonstrate he did not exceed the income standard with the income that remained outside the QIT.


Thus, Petitioner may establish eligibility as of August 1, 2016 as he has deposited a full check into his QIT. However, he must demonstrate that he did not receive three checks from the Second Injury Fund in any calendar month so as to raise his income above the standard. To seek retroactive benefits, Petitioner has the same burden to demonstrate that he received only two bi-weekly checks during the calendar month and placed one of the checks into the QIT.

THEREFORE, it is on this <sup>3<sup>rd</sup></sup> day of MAY 2017

ORDERED:

That the Initial Decision is hereby REVERSED; and

That the matter shall be RETURNED to Cumberland County so that Petitioner can demonstrate the actual date of each check from the Second Injury Fund from May 2016 through October 2016 and which checks were deposited.

  
\_\_\_\_\_  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services