



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Assistant Commissioner

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

S.A.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

MIDDLESEX COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 9983-2019

As Assistant Commissioner for 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 Decision is March 30, 2020 in accordance with an Order of Extension.

The matter arises regarding the determination that Petitioner was not eligible for Medicaid for certain months due to his failure to properly fund his Qualified Income Trust (QIT). Petitioner's income of \$2,648 exceeds the Medicaid limit of \$2,313 for 2019. As a result, he executed a QIT to place his entire Social Security check of \$2,648 into the QIT. By placing income in a QIT, Middlesex County is able to exclude that amount from the income limit. See 42 U.S.C. § 1396p(d)(4)(B) and Medicaid Communication 18-01.

However, a review of the bank statements from April to June 2019 do not show that this was done.

The enabling federal law for QITs permits a state to exempt a trust from the trust rules if it complies with the following requirements.

- (B) A trust established in a State for the benefit of an individual if--
- (i) the trust is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust),
 - (ii) the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance paid on behalf of the individual under a State plan under this title [42 USCS §§ 1396 et seq.], and
 - (iii) the State makes medical assistance available to individuals described in section 1902(a)(10)(A)(ii)(V) [42 USCS § 1396a(a)(10)(A)(ii)(V)], but does not make such assistance available to individuals for nursing facility services under section 1902(a)(10)(C). [42 USCS § 1396a(a)(10)(C)].

Here, Petitioner failed to meet those requirements as the bank statements show that income was not properly deposited and resources were added to the QIT. As such, the QIT cannot be used to exclude income from the eligibility determination. Additionally, the trust must be looked at under the trust rules which make the funds in the QIT bank account accessible and creates another basis for ineligibility.

Petitioner's QIT states that "[n]o property may be placed in the Trust other an income from the primary beneficiary's pensions, Social Security, or other income sources The entire amount of the income allocated to the Trust shall be deposited directly in the trust account or deposited in the trust account in the same month it is received by the primary beneficiary." Petitioner is the primary beneficiary.

The requirement that the income be deposited in the same month it is received is found in federal and state law. Simply put, income is only considered "income" in the month it is received. 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). See Supplemental Security Income (SSI) guidance, namely Program Operations Manual System (POMS), SI 00810.010

Relationship of Income to Resources (“In general, anything received in a month, from any source, is income to an individual, subject to the definition of income for SSI purposes in What is Income SI 00810.005. Anything the individual owned prior to the month under consideration is subject to the resource-counting rules. An item an individual receives in the current month is income for the current month only. (See exceptions to this general rule in SI 00810.030.) If held by the individual until the following month, that item is subject to resource-counting rules. (See exception in SI 01110.100 - SI 01110.115.”). See also 42 U.S.C.A. 1382a; 20 C.F.R. §§ 416.1111 and 416.1123.

Based upon my review of the record, I hereby ADOPT the Administrative Law Judge’s recommended decision. I agree that Petitioner’s claims that the amounts were de minimis is immaterial as Medicaid requires “narrow construction of the qualification for exclusion.” ID at 6. Medicaid operates on bright line thresholds for eligibility. Middlesex County must rely on the QIT documents as the legal framework for how the trust is funded. The bank statements and the QIT documents must align to show compliance with the federal law to permit the income to be excluded. When the statements show deposits at odds with the trust, the exclusion of the income is void.

THEREFORE, it is on this 24 day of MARCH 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED.


Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance
and Health Services