

Prince, filed an application for Medicaid with the CCBSS. On the application, Petitioner disclosed a single Bank of America (BOA) account with a balance of \$211.95, monthly social security income of \$1358 and three monthly pension payments of \$551.21, \$428.82 and \$1667.56. On September 4, 2019, Petitioner, through her POA, signed a QIT agreement naming Sam Stern of Future Care Consultants as her Trustee and Susan Roman as her alternate Trustee. The QIT document listed \$1,358.50 in income from social security and \$1,667.56 from one of her pensions to fund the trust. Because the \$1358.50 did not reflect the full amount of Petitioner's social security check (\$1385.50), CCBSS denied the application, relying on Med-Com 14-15 which states:

In order for income to be disregarded, it MUST be deposited monthly into the QIT bank account. Checks deposited into the QIT bank account must include the entire dollar amount of that income source, (for example, social security check for \$1,000 cannot be broken into \$500 inside the Trust and \$500 outside the Trust), the entire check must be deposited inside or outside the Trust.

The ALJ found that the Petitioner incorrectly listed her social security benefits amount at \$1,358.50 on her application and on Schedule A of her QIT. There is no indication from the record that this mistake was ever corrected, or that Petitioner ever deposited the full amount of the social security check in to the QIT. Even still, the ALJ finds that since Petitioner did not need to include both her social security income and her pension income to financially qualify for Medicaid, Petitioner should not be penalized for failing to properly fund the Trust or correct the QIT document. For the reasons that follow, I hereby REVERSE the Initial Decision and REMAND the matter for additional testimony and evidence.

By way of background, as of December 1, 2014, New Jersey received federal authority to cease covering nursing home services under Medically Needy and to 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 \$2,313) to place the excess income in a 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, the County Welfare Agency (CWA) is able to exclude

that amount from the income limit. In addition to the requirement that checks deposited into the QIT “must include the entire dollar amount of that income source,” the QIT document must contain the following provisions:

- The QIT must contain only income of the individual;
- The QIT must not contain resources such as money from the sale of real or personal property or money from a savings account;
- The QIT must be irrevocable;
- The QIT must have a trustee to manage administration of the Trust and expenditures from the Trust as set forth in federal and state law;
- New Jersey must be the first beneficiary of all remaining funds up to the amount paid for Medicaid benefits upon the death of the Medicaid recipient;
- Income deposited in the QIT can only be used for the specific Post-Eligibility Treatment of Income and to pay for the Medicaid beneficiary’s cost share.

Med-Com No. 14-15.

While the CCBSS’ actions may appear draconian, the matter here is not as simple as Petitioner failing to deposit the full amount of her social security check into a QIT. Petitioner’s failure to properly establish and fund the QIT warrants further scrutiny. QITs must contain only income of the individual. It is not clear from the documents provided that the QIT is actually funded with any of Petitioner’s own income. Bank records show transfers of \$1,667.56 and \$1,385.50 on September 26, 2019. These transfers were not from Petitioner’s bank account, but rather from an unknown source. In fact, records from Petitioner’s BOA account show no transfers on September 26, 2021.¹

Although the Petitioner agreed to fund the QIT with her social security and pension income, there is no evidence that Petitioner funded the QIT with either her social security or her pension. Petitioner presented no witnesses at the hearing, nor did she proffer any documents. What is left are financial and legal documents, submitted by CCBSS, that show an irrevocable QIT set up and a trust account opened and funded for at least two months with \$1,667.56 and \$1,358.50 from some unknown source. I am REMANDING this matter

¹ The only large withdrawal (\$1,707) on the BOA statement occurred on September 23, 2019 to Senior Care Centers.

to the Office of Administrative Law (OAL) for additional documentation and testimony from Petitioner's trustee or default trustee to explain the source of the transfers to Petitioner's trust account from September 2019 to present, including but not limited to the identification of the "Cumberland Opera Credit/Debit" accounts. I am also REMANDING this matter for additional BOA account statements showing the credit and debit or transfer of Petitioner's social security benefit and pension as identified in the QIT.

THEREFORE, it is on this 6TH day of MARCH 2021,

ORDERED:

The Initial Decision is hereby REVERSED and REMANDED for additional testimony and evidence regarding the funding of Petitioner's QIT.



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