

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA

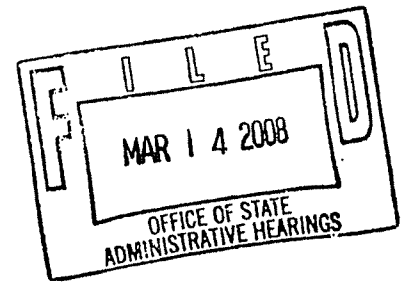
[Redacted]  
Petitioner,

v.

DEPARTMENT OF HUMAN RESOURCES,  
DIVISION OF FAMILY AND CHILDREN  
SERVICES,  
Respondent.

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Docket No.: OSAH-DFCS-NH-0819928-60-Hackney  
Agency Reference No.: 673192116



INITIAL DECISION

Introduction

Petitioner requested a hearing that was held on March 3, 2008, in response to Respondent's action denying Petitioner's application for Nursing Home assistance under Medicaid for being over the allowable income limit. [Redacted], Petitioner's son, and [Redacted] a Medicaid Specialist with Christian City Convalescent Care, appeared on behalf of Petitioner. [Redacted] Caseworker, appeared and testified on behalf of Respondent. Petitioner seeks Medicaid assistance for the months of September and October 2007.

Findings of Fact

1.

Petitioner entered a nursing home facility on September 10, 2007. On October 25, 2007, Respondent received, on behalf of Petitioner, an application for nursing home assistance under Medicaid. On October 29, 2008, Respondent mailed to Petitioner, a checklist and other forms requesting verification of resources and income. The form was to be returned by November 6, 2007. (Testimony of [Redacted])

2.

Petitioner's son, [Redacted] went to Respondent's office for an interview on November 7, 2008. At that interview, Respondent learned of Petitioner's income and knew that a Qualified Income Trust

("QIT") would be required. At that time she learned that a QIT had already been set up and funded in the amount of \$50.00. (Testimony of [REDACTED])

3.

Petitioner's monthly income was \$2,661.47 and her income exceeded the allowable Medicaid Cap by \$793.47. (Exhibit R-1; Testimony of [REDACTED])

4.

Petitioner placed \$4,808.64 in the QIT on November 7, 2007. (Stipulation by the parties).

5.

Respondent subsequently determined that Petitioner's income exceeded the allowable income limits and denied Petitioner's application for the months of September and October of 2007. (Testimony of [REDACTED]).

#### Conclusions of Law

1.

Inasmuch as this case involves an application for benefits, Petitioner bears the burden of proof to establish that the action undertaken by Respondent is improper under a preponderance of the evidence presented. OSAH Rules 616-1-2-.07(1)(d) and 616-1-2-.21(4).

2.

Nursing Home Medicaid is a class of assistance (COA) that provides benefits to eligible individuals residing in a Medicaid-participating nursing home. An applicant or recipient (A/R) is eligible for such benefits when basic and financial eligibility criteria regarding income and resources are met. Georgia Department of Human Resources Economic Support Services Manual (*ESSM*), § 2141.

3.

Applicants whose income is equal or greater than the Medicaid Cap may establish a QIT as an alternative by which they may receive Medicaid benefits by sheltering all or a portion of their income from the eligibility determination process. *ESSM* § 2407-1.

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4.

All of the applicant's income may be placed in the QIT or just the excess over the Medicaid Cap. Failure to properly and timely fund the QIT will result in a loss of eligibility for that month or the first month in which timely notice may be given. Respondent's manual recommends that all of the Applicant's income be placed in the trust, if possible, *ESSM* § 2407-2.

5.

The applicable individual income limit is \$1869.00 and is published in Respondent's manual. *ESSM*, Appendix A1 (2007).

6.

Here, Petitioner established a QIT in the amount of \$50.00, but failed to fund it in such a manner that her income did not exceed the allowable income limit. Petitioner argues that she was unaware of the applicable funding amount and should therefore not be bound by Respondent's requirements. Petitioner apparently failed to consult with the Respondent's manual at the time the QIT was set up or she would have known that the allowable income limit was \$1,869.00. Petitioner also could have contacted Respondent for assistance at the time the QIT was funded to ensure that Petitioner's income would have been properly sheltered such so as to meet eligibility requirements. Having failed to take these reasonable steps, Petitioner does not meet the eligibility requirements for the months in question.

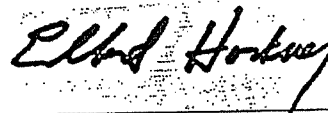
8.

Respondent correctly denied Petitioner's application for Medicaid nursing home assistance for the months of September and October of 2007, as required by its policy.

#### Decision

Based on the foregoing findings of fact and conclusions of law, the Respondent's action is **AFFIRMED**.

SO ORDERED this 14<sup>th</sup> day of March, 2008.



ELBERT HACKNEY  
Administrative Law Judge