



application. R-1 at 40. Regardless, the burial contract only removed those funds to possibly effectuate an October 1, 2019 eligibility date which the second application would cover.

Petitioner's case at the fair hearing is puzzling as no one involved in the first application appeared. Her step-daughter did not testify at the hearing about this application. Rather Karen Sonderman, the business office manager for the nursing home, testified generally about Medicaid applications and difficulties in getting information from a life insurance company. Nothing in the record shows that Ms. Sonderman was involved with the application on appeal or that Petitioner's step-daughter encountered any difficulties. Rather the record shows that in March, the value of the life insurance policies had been provided by the companies. It appears that Ita Gutman, another employee of the nursing home, became Petitioner's Designated Authorized Representative (DAR) in August 2019 but did not provide it to Camden County until this application had been denied and another had been filed. ID at 7. Likewise, Ms. Gutman did not testify.

In exceptions, Petitioner argues that the delay in Camden County's assigning the case prevented her from being found eligible. She also argues that she should have been given more time to spend down her excess resources. Again, no witnesses were presented to support this argument. While Camden County's delay in keeping Petitioner's application open beyond 45 days was improper, had Petitioner met the resource standard during that time, Medicaid benefits could have been awarded.

Petitioner mischaracterizes the effect of the retroactive period. It does not afford applicants "a reasonable time to submit application materials." Exceptions at 3. Rather it permits eligibility to be granted up to three months prior to the date of the application when all eligibility factors have been met. The federal statute allows retroactive coverage of medical care and services "furnished in or after the third month before the month in which he made application . . . **if such individual was (or upon application would have been) eligible for such assistance at the times such care and services were furnished.**" 42 U.S.C.A.

§1396(a)(34) (emphasis added). This provision was enacted to protect "**persons who are eligible for Medicaid** but do not apply for assistance until after they have received care, either because they did not know about the eligibility requirements or because the sudden nature of their illness prevented their applying." 1972 U.S. Code Cong. & Ad. News 4989, 5099 (emphasis added). The facts in this case do not meet the requirements for retroactive eligibility as Petitioner's excess resources barred her from eligibility until October 2019.<sup>1</sup>

Thus, for the reasons set forth above, I hereby ADOPT the Initial Decision and uphold the denial of Petitioner's application.

THEREFORE, it is on this <sup>17<sup>th</sup></sup> day of MAY 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED.

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

---

<sup>1</sup> Depending on the outcome of the second application, Petitioner may be entitled to have the three months prior to the Medicaid eligibility date covered through Pre-Eligibility Medicaid expenses that permit certain medical expenses incurred in three months prior to eligibility be paid out her post-eligibility income. See Medicaid Communication No. 10-07.