

2019, it was not mailed to Camden County until January 6, 2020. P-9. The application related that Petitioner and her husband had used nearly \$350,000 of their assets to purchase three annuities payable to the husband. ID at 3. The Initial Decision recounts the financial strategies the couple used to protect these funds. Even so, Petitioner's husband was entitled to retain an additional \$128,640. Camden County found that as of January 1, 2020, the countable resources amounted to \$136,912.25 and the case was denied. P-15.

Petitioner, through counsel, does not contest the determination that she was over resources in January 2020. Rather she filed a motion for summary decision claiming that Camden County did not determine retroactive eligibility for the singular month of December 2019. That is the sole relief she is seeking.

Retroactive eligibility 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).

I concur Petitioner should be examined for retroactive eligibility in December 2019. The record had glimpses of Petitioner's financial status for that month that may not have

been reviewed at the time of application since the matter was denied. Of note is the annuity purchased as contract number TRA00414 in November 2019 which according to counsel was funded by a non-compliant annuity. Brief at 12 and P-8. That annuity has a new endorsement that reduces the time Petitioner has to request a refund from 30 to 10 days from the date of receipt. P-8. During that time period the annuity is revocable. The date of receipt is not in the record. Additionally the endorsement states the reduced time period takes effect on the Annuity Date which according to the contract is December 10, 2019. The circumstances and effect of this annuity on the couple's resources for December 2019 should be examined by Camden County.

THEREFORE, it is on this ^{1st} day of JULY 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED; and

That the matter is RETURNED to Camden County to review Petitioner's eligibility for December 2019.



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