

looking for an earlier pick up date. Ocean County had found Petitioner was over resources for July and August 2019 which encompasses the look back period.

At the hearing Petitioner, through his son, brought up facts and circumstances surrounding a prior termination letter that was not appealed. Petitioner had been receiving benefits but was terminated in February 2019 when his wife failed to complete the renewal application. Ocean County had sent the renewal application on September 24, 2018 with a reminder notice dated October 18, 2018. On January 15, 2019 Ocean County noticed Petitioner that his benefits would be terminated effective February 28, 2019.

While Petitioner's son testified his mother had been neglecting matters such as the Medicaid renewal, he testified that he taken over the Medicaid process in January 2019 and had received the termination notice. That notice contained the right to appeal for a fair hearing. His son testified that he "preferred to comply rather than challenge a decision." ID at 6. He did complete a renewal about the same time as the termination notice was issued. He disclosed that his parents had sold property in Brooklyn in 2018 and that the "firm who prepared the application sent notice of the sale." R-2.

Ocean County responded to the renewal in March 6, 2019, after the time to appeal had expired, seeking verification on the spenddown of the sale of the property. The Initial Decision recounts the correspondence that then occurred between Petitioner and Ocean County. In July 2019, Ocean County informed Petitioner that his case continued to be closed and provided him with a new application. R-5. That application was denied in October 2019 because Petitioner exceeded the resource standard. It also appears that that denial was not appealed.

In October 2019 another application was filed by Application Pros, who had become the Designated Authorized Representative, and Petitioner was found eligible effective September 1, 2019. The company was involved with the July application and had communicated the Ocean County from June 2019. P-3. No one from the company testified at the hearing.

The Initial Decision finds that Petitioner only appealed the October 28, 2019 application which set Petitioner's eligibility date at September 1, 2019. In claiming he was eligible earlier, Petitioner is attempting to appeal denial and termination letters that are not part of the matter transmitted to OAL. The contested matter was framed by the timely request for an appeal of the January 15, 2020 outcome letter. At most, Petitioner could have sought eligibility to encompass the full three months of retroactive coverage that is available to Medicaid applicants. See N.J.A.C. 10:49-2.9(b). Ocean County granted retroactive coverage for September 2019. Petitioner provided no evidence at the hearing that he met Medicaid resource standard for July and August. In fact, the Initial Decision states that Petitioner conceded he was not eligibility for July and August 2019.

I concur with the Initial Decision's determination that equitable estoppel doesn't run against the state. Where public benefits are concerned, courts have gone farther to recognize that "[e]ven detrimental reliance on misinformation obtained from a seemingly authorized government agent will not excuse a failure to qualify for the benefits under the relevant statutes and regulations." *Gressley v. Califano*, 609 F.2d 1265, 1267 (7th Cir.1979). See also *Office of Personnel Management v. Richmond*, 496 U.S. 414, 419 (1990); *Johnson v. Guhl*, 357 F.3d 403, 409-10 (3rd Cir. 2004). While the correspondence

between Petitioner and Ocean County surrounding the prior applications was discussed below, those outcome letters were not appealed or transmitted to OAL. ID at 12.

The only outcome letter before the OAL concerns the October 2019 application by which Ocean County determined Petitioner was eligible as of September 1, 2019. Petitioner admits he was over resources in July and August 2019 and, as such, has received all the benefits he is entitled to under that application. Thus, I FIND that the Initial Decision correctly upheld Ocean County's January 15, 2020 letter and the record supports this finding.

THEREFORE, it is on this ^{19th} day of MARCH 2021,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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