

application with Morris County. On October 20, 2021, Petitioner was found Medicaid eligible effective September 1, 2021. Petitioner was also sent a notice that he was eligible for retroactive Medicaid for the three months prior including May, June and July 2021. The facility in which Petitioner resided then filed for PEME to cover the Medicaid gap from August to September 2021. Morris County denied the request as Petitioner has been found eligible as of September 1, 2021 and already received three months retroactive benefits.

Petitioner is entitled to have the three months prior to the application covered either through a finding that he was eligible for those three months or to permit certain medical expenses incurred in that same three month period be paid out of post-eligibility income. An application can only establish eligibility for the month in which it is filed, in this case, August 2021. Congress provided that retroactive benefits are available when the applicant would have been financially eligible in the three months prior to the application. See N.J.A.C. 10:49-2.9(a) and 42 U.S.C. § 1396a(a)(34). If an applicant is not otherwise eligible in the three months prior to application, a facility can apply for PEME for bills incurred up to three months prior to eligibility. See Medicaid Communication No. 12-13. Petitioner is only entitled to relief for medical expenses he incurred during one three-month period prior to his eligibility date. See Medicaid Communication No. 10-07. Therefore, while it is true that individuals may have a combination of PEME and retroactive eligibility to cover expenses in the three months prior to their Medicaid effective date, the combination cannot exceed three months. Medicaid Communication No. 18-10. I FIND that Petitioner is not entitled to four months of expenses prior to his application or eligibility.

However, the Families First Coronavirus Response Act (FFCRA) as well as subsequent legislation provides an increase in the federal share of certain Medicaid spending so long as States meet certain maintenance of eligibility (MOE) requirements that include ensuring continuous coverage for current enrollees. See Public Law 116 - 127 - Families First Coronavirus Response Act. The MOE, which includes a requirement that Medicaid programs keep people continuously enrolled, expires at the end of the month in which the federal Public Health Emergency (PHE) ends. Therefore, Petitioner's period of retroactive benefits should be continued through August 2021. Thus, I hereby ADOPT the Initial Decision but MODIFY the basis for the decision. I FIND that while Petitioner's eligibility was calculated correctly, the FFCRA requirement that his benefits continue applies and his retroactive benefits should have continued through August 2021.

THEREFORE, it is on this 20th day of JUNE 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED and MODIFIED to reflect compliance with the FFCRA MOE requirements.



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