

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 9045
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare (DSW) determining that her Medicaid benefits should be terminated because her income is in excess of the maximum for eligibility.

FINDINGS OF FACT

1. In August of 1988, the petitioner received ANFC, Food Stamps and Medicaid for herself and her children. Because she had some income, she was required to file monthly reports with the Department.

2. In September of 1988, the petitioner obtained employment with a school district and signed a contract which stated she would be paid \$6,675.00 for 178 days.

3. The petitioner was given the option by her employer of receiving her paycheck in twenty-one payments over a period of nine months or twenty-six payments over a period of twelve months. She was also given the option of enrolling in a Blue Cross/Blue Shield insurance program.

4. The petitioner chose to be paid over a nine month period in twenty-one payments and opted not take the medical insurance because she already received Medicaid.

5. The petitioner did not discuss the above actions with her benefits case manager or anyone else at DSW.

6. In early October 1988, the petitioner reported income received during the month of September from her school job and income from a waitressing job which totaled \$1,186.31. She also received \$50.00 in child support.

7. Based on the figures in her report form, calculations were performed and a net income figure of \$1,001.31 was obtained which the Department determined was over the total needs amount for ANFC which was \$654.65.

8. On October 6, 1988, the petitioner was notified, in pertinent part, that her ANFC would be suspended but she would continue to be eligible for both ANFC and Medicaid. She was advised to file another monthly report form for the beginning of November at which time she would receive a new notice on eligibility.

9. In early November of 1988, the petitioner reported that she received gross income of \$1,028.36 which, after deductions resulted in \$853.36 in countable income which was again over the \$654.65 limit for a family of four.

10. On November 5, 1988, the petitioner was notified that her ANFC was closed due to excess income and that her Medicaid would continue for four more months, until February 28, 1989. She was notified to reapply for Medicaid benefits thirty days before February 28, 1989.

11. Because the petitioner continued to receive Food Stamps, she continued to file monthly reports. In early

February 1989, a monthly report of her January income was filed showing a gross earned income of \$923.05 and \$75.00 received as child support.

12. Because her Medicaid was about to expire, the petitioner's case manager reviewed the figures for January to see if the petitioner might have become eligible. She determined that her countable income (after deduction and disregards) was \$948.05 which was over the Medicaid protected income level of \$875.00. She notified the petitioner in a letter dated February 8, 1989, that she was \$73.05 over the income level which meant that over a six month period (March 1, 1989 to August 31, 1989) she had to incur \$438.30 (73.05×6) worth of medical bills to be income eligible again.

13. The petitioner appealed the February 8, 1989 notice. She does not disagree that the Department gave her all deductions and disregards to which she is entitled and that the calculations were properly performed. She argues, however, that the Department should have averaged her nine-month school income over a twelve-month period instead of using the amounts she actually received each month. Had such averaging been done, her monthly income from her school job would be \$556.25 instead of \$741.67 and that figure combined with her waitress income would be under the Medicaid limit.

14. The petitioner did not opt to take the Blue Cross/Blue Shield policy because she believed she would be

covered by Medicaid. She cannot enroll in that program until October 1, 1989. Her daughter is in the middle of orthodontics treatment and she is concerned that the Medicaid ineligibility will affect that treatment. Had the petitioner realized that it would have made a difference in her Medicaid eligibility, she would have opted to have her employer pay her over a twelve-month period.

ORDER

The Department's decision is affirmed.

REASONS

The Department's Medicaid regulations provide for purposes of defining eligibility that:

. . . "Income is considered available and counted in the month it is received or credited to the individual with the exception of a lump sum receipt of earnings such as sale of crops or livestock. These receipts are only counted if received during the six-month accounting period and are averaged over the six-month period." M. § 240

The regulation makes it plain that income must be counted in the month it is received and that only lump sum income can be averaged over several months. There is no dispute that the Department used the correct amounts actually received on a monthly basis and it must be concluded then that the Department's determination to terminate the petitioner's Medicaid is in accord with its regulations. As such, the Board must affirm the Department's decision. 3 V.S.A. § 3091(d).

It is too bad that the petitioner did not talk with her worker about eligibility limits prior to making her

agreement with her employer to receive her pay in a shorter time period. Perhaps she can renegotiate that arrangement and spread out the actual receipt of her income. If so, or if there is any reduction in her waitressing income, the petitioner is strongly encouraged to reapply for Medicaid benefits.

#