



of retroactivity.<sup>1</sup> In this case, however, the department found the petitioners eligible for Medicaid only as of January 1, 1989 (although their retroactive coverage could have begun as of October 1, 1988) because of its determination that the petitioners had excess resources in the months prior to January, 1989.

When the petitioners received their notice of this decision they called the department to inquire about retroactive coverage. At the time, they had outstanding medical bills from September through December, 1988. Despite this, the petitioners did not file an appeal in the matter until September, 1989.

A hearing in the matter was first held on October 18, 1989. At that time, the department agreed to review the question of whether the petitioners may have been eligible for the three months prior to January, 1989.<sup>2</sup> The matter was again set for hearing on January 9, 1990, at which time the department submitted computations establishing that the petitioners' resources during the months October through December, 1988, were, indeed, in excess of the department's maximum. The petitioners do not dispute the department's calculations.

As for September, 1988, the petitioners maintain that they did not appeal the denial of their earlier application for coverage in that month because they thought the medical

expenses they had incurred that month would be covered in full by private insurance. It turned out, however, that a substantial portion of a September, 1988, medical bill was not covered by insurance. The petitioners do not allege, however, that the department was at fault in any way in any misunderstanding the petitioners may have had regarding the extent of their private insurance coverage. The petitioner's do not dispute that their appeal regarding the month at issue, September, 1988, was filed some eleven months after they received notice from the department regarding their ineligibility for Medicaid for that month.

ORDER

The department's decisions are affirmed.

REASONS

The petitioners do not dispute the department's evidence that their resources for the months of September, October, November, and December, 1988, were in excess of the department's maximum.<sup>3</sup> It is also uncontroverted that the petitioners' appeal in this matter was filed eleven months after the date of the department's notice denying them Medicaid coverage for September, 1988.<sup>4</sup> Therefore, the department's decisions are affirmed.

FOOTNOTES

<sup>1</sup>See Medicaid Manual § M113.

<sup>2</sup>There was evidence that the petitioners had at least orally inquired about retroactive eligibility soon after they received written notice regarding their January, 1989, application. Therefore, the petitioners' appeal of this

issue was held to be timely.

<sup>3</sup>Under Medicaid Manual § M230, the petitioners' resource maximum was \$2,500.

<sup>4</sup>Under Fair Hearing Rules No. 1, appeals must be requested within 90 days from the date the petitioners' grievance arose. Even if the petitioners' second application for Medicaid, filed on January 12, 1989, can be construed as an appeal of the denial of their earlier application (though there is no compelling factual basis to do so), this action was also taken more than 90 days from the date of the department's denial of the first application (October 13, 1988).

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