

desires. He has appealed the New Hampshire Medicaid denial with the help of a legal aid attorney in that state and had a hearing scheduled for August 19, 1991.

4. On June 5, 1991, the Vermont Department of Social Welfare was notified by the nursing home that the petitioner was discharged to her home in New Hampshire. On June 7, 1991, the Department notified the petitioner that her Medicaid eligibility would end on June 30, 1991 because she is no longer a resident of the State of Vermont.

5. The petitioner has incurred some expenses for medication (about \$30.00) since she returned to her New Hampshire home which she could not get Vermont Medicaid to cover. She asked that her Medicaid be continued until her eligibility is determined in New Hampshire and has asked that action be taken against the nursing home for her alleged mistreatment. The petitioner has already been in touch with the Division on Aging and Rehabilitation and has had some correspondence with them regarding this matter.

6. The Department agreed at hearing that the petitioner's Medicaid would continue until a ruling on the appeal was made by the Board and that her medical expenses would be reimbursed or paid for until such time.

ORDER

The Department's decision is affirmed.

REASONS

The Medicaid regulations require that:

An individual must be a resident of Vermont to meet the residence requirement. The state of residence of an individual is determined according to the following:

. . .

4. For any non-institutionalized individual age 21 or older, residence is in the state in which the individual is living
 - (a) with intent to remain permanently or for an indefinite period of time, or
 - (b) While incapable of stating intent, or
 - (c) after entering with a job commitment or in pursuit of employment whether or not currently employed.

. . .

6. For any other institutionalized individual age 21 or older, residence is in the state where the individual is living with the intention to remain there permanently or for an indefinite period upon discharge from the institution, unless another state has made a placement (See M213.2).

M213

When the petitioner was a long-term resident of a Vermont nursing home, she was eligible for Vermont Medicaid under M213(6) above. However, the facts here clearly show that she has returned to New Hampshire and intends to remain indefinitely in that state. As such, under M213(4) she must now be found to be a resident of New Hampshire for Medicaid purposes.

The petitioner does not, in fact, argue that she is a resident of Vermont but asks for continued coverage of her Vermont Medicaid until her New Hampshire application is settled. However, there is no regulation which would allow extended coverage in this situation. The regulations specifically require that "an individual must be a resident

of Vermont at the time a medical service is rendered in order for Vermont Medicaid to pay for that service." M213.4

That regulation prohibits the state from making Medicaid payments (except, of course, those required pending the hearing process, see M143) once a person has unequivocally taken up residence in another state. Thus, the Department is correct in terminating the petitioner's benefits.

It was explained to the petitioner at hearing that her eligibility in New Hampshire for Medicaid would, if granted, be retroactive to the initial date of application, thereby eliminating any potential gap in her coverage. The petitioner was also advised that the Human Services Board does not have jurisdiction under 3 V.S.A. § 3091 to hear complaints regarding nursing home practices but that she may have recourse through the Department of Health (the licensing agency) or the Consumer Protection division in the Attorney General's office. She was also urged to continue her contact with the Office on Aging and Rehabilitation.

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