STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 10,682
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the Department of Social Welfare's decision to deny him retroactive Medicaid benefits for the fourth month before his application.

FINDINGS OF FACT

1. The petitioner's child had an appendectomy on February 15, 1991, for which the petitioner was unable to pay. After he got the hospital bill, he was encouraged by the hospital to apply for Medicaid. He was assured by the hospital that his application would be retroactive to the date of the operation.

2. On April 10, 1991, the petitioner applied for Medicaid. He was anxious to know if, assuming he were found eligible, his coverage would be retroactive to February and was advised by the worker that it would be.

3. During the course of the interview, the petitioner revealed that he owned twenty-two acres of land which had some considerable value but which was being foreclosed on. He stated that he had no right to sell it. The worker told the petitioner that he needed to get verification of that fact before he could be found eligible.

4. On April 16, 1991, the worker sent the petitioner a letter asking for "proof that he no longer own (sic) the

twenty-two acres of land". That notice advised the petitioner that he had until April 26, 1991 to submit the information and said that if he was having a problem obtaining the information, the Department would assist him or could extend the deadline for submission. The worker's name and phone number was included on the notice.

5. After receiving no response to this letter, the worker again asked for the information by letter dated April 29, 1991. It contained the same information as the April 16th letter but set a new deadline of May 8, 1991. That letter specifically warned the petitioner that if proof was not received, the Department would deny his application for Medicaid.

6. On May 13, when no response had been received to the two letters, the worker prepared a denial notice and mailed it to the petitioner. It notified him that he had been denied Medicaid as of May 10, 1991 because "you have not provided information that is necessary to determine your eligibility". It also advised him, "You may reapply at any time."

7. The petitioner received both the request letters but admitted that, although he is able to read, he did not read either of them or attempt to contact the Department. He was having some difficulty getting the information on the land but did not share that information with the Department. The petitioner also received the denial letter but was not concerned because it said he could reapply at any time. He

did not contact the Department at all between April 10 and the middle of June.

8. In June of 1991, the petitioner finally got the information he needed and brought it back to the Department. He was asked to fill out a new application and he was subsequently determined to be eligible for Medicaid. However, he was informed that because his application was filed in June and regulations allow only three month's retroactive eligibility, his Medicaid was effective starting March 1, 1991. Therefore, the February hospitalization could not be covered.

9. Because the hospital told him that Medicaid coverage was retroactive, the petitioner believed that it would cover the February bill no matter when he applied. He assumed from the worker's assurance that the February hospital bill would be covered under his April application that it would be covered under any future application as well. He stated that no one told him about the three month retroactive rule. There is no evidence, however, that he ever told the worker that he thought his Medicaid would be retroactive to February no matter when he applied.

ORDER

The Department's decision is affirmed.

REASONS

The Department's regulations do limit retroactive Medicaid to the "three calendar months prior to the month of application, provided that all eligibility criteria were met

during the retroactive period to be granted. M э 113 The regulations also require that the value of resources must be documented in the case record before an eligibility determination is made and that refusal to cooperate necessitates a denial of the application. M э 126 The Board has indicated that "refusal" can be presumed if written requests containing deadlines and specific consequences go unanswered without good cause. Fair Hearing No. 10,217.

The petitioner's denial clearly came about because of a misunderstanding by the petitioner as to the importance of keeping his first application alive in order to get the needed retroactive benefits. However, it cannot be found that the misunderstanding was caused by the Department or that the Department was aware of the misunderstanding or had any opportunity to correct it. The petitioner made an assumption based on what the hospital had told him regarding retroactivity. The worker's confirmation that his application would be retroactive to a certain date may have bolstered his original incorrect assumption but was not in and of itself misleading. If the petitioner had bothered to read and respond to either of the letters which he admits he received, he could have received an extension of the verification deadline and could have been advised of the true facts of his situation. However unfortunate his misconceptions were, they were the product of his own rash assumption and not the result of any action or inaction of

the Department. Therefore, the Board is constrained to affirm the Department's decision finding eligibility back to March 1, 1991, only, even though the result is a harsh one for the petitioner and his family. 3 V.S.A. э 3091(d), Fair Hearing Rule No. 19.

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