

Two days later, however, the petitioner called to report that there had been a chimney fire at his home and that his flue was cracked. Based on this, the Department authorized G.A. for a delivery of 100 gallons of kerosene, a backup source of heat in the petitioner's home.

At the hearing the petitioner testified that he still has kerosene but that it is necessary to continue burning wood (despite the damaged flue) to keep his home warm. He has several cords of wood in his yard but he has not paid for it yet. He admits, however, that there is no imminent threat that the dealer will take the wood back.

2.) FUEL ASSISTANCE DENIAL -

On February 5, 1992, the petitioner also applied for fuel assistance benefits. The Department denied this assistance because the petitioner lives in a subsidized rental unit that includes an allowance for heat.

3.) RETROACTIVE MEDICAID COVERAGE -

Sometime before February 5, 1992, the Department had granted the petitioner Medicaid because of his eligibility for S.S.I. The petitioner's eligibility for S.S.I. and Medicaid was determined to be retroactive to February 1990-- the date of his S.S.I. application.

On February 5, 1992, the petitioner also appealed the effective date of his Medicaid eligibility. The petitioner maintains that he has medical bills that were incurred prior to February, 1990, that should be covered. However, he does not dispute the fact that he did not file a timely appeal of

any application for Medicaid made prior to February, 1990.

4.) RECOVERY OF G.A. FROM RETROACTIVE S.S.I. BENEFITS

- When the petitioner received his retroactive S.S.I. check, the Department notified him that it had deducted from it the amount of G.A. it had paid the petitioner during the pendency of the petitioner's S.S.I. application. This was done pursuant to a "recovery of assistance agreement" the petitioner had signed when he first applied for G.A. after applying for S.S.I. However, the Department now concedes that since the agreement was signed by the petitioner more than one year prior to the payment of his retroactive S.S.I. benefits, it had no basis under the regulations² to take any deduction from the petitioner's S.S.I. The Department represented to the petitioner and the hearing officer that it would promptly pay to the petitioner the entire amount of G.A. it had previously deducted from the petitioner's retroactive S.S.I. benefit. Thus, this issue appears moot.

As for the other issues noted above, the regulations clearly exclude rent-subsidized households from the supplemental fuel benefits program. W.A.M. § 2902.4(2). There is also no question that absent a timely appeal the board lacks authority to address the petitioner's eligibility for Medicaid prior to February 1990. See Fair Hearing Rule No. 1.

The remaining issue is the petitioner's eligibility for G.A. to pay for wood or utilities. As noted above, the petitioner has several cords of wood in his yard. The

dealer has not threatened to take it away. He still has not received a disconnect notice for his electricity. He now receives regular monthly S.S.I. benefits. Shortly, he will be paid the G.A. portion of his retroactive S.S.I. benefit.

(This comes to well over a thousand dollars.) Also, in addition to his S.S.I., the petitioner was recently found eligible for monthly "essential person" (E.P.) benefits because of the care his wife provides to him. Considering all this, it cannot be concluded that the petitioner faces a "catastrophic situation" as defined in W.A.M. § 2602.³

ORDER

The Department's decisions is affirmed.

FOOTNOTES

¹The petitioner filed two separate appeals involving all his claims. At a hearing held on March 9, 1992, all his appeals were consolidated.

²See W.A.M. § 2600D.

³The petitioner was advised to contact Vermont Legal Aid about an ongoing dispute with his landlord concerning repairs and rent payments.

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