

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,123
)
Appeal of)

INTRODUCTION

The petitioners (Mr. and Mrs. O.) appeal the decision by the Department of Social Welfare terminating their Medicaid benefits. The issue is whether the petitioners' income is in excess of the program maximum.

FINDINGS OF FACT

The facts are not in dispute. Prior to December, 1991, the petitioners, who are disabled, received Medicaid based on Mrs. O.'s income of Social Security disability benefits (O.A.S.D.I.) and Mr. O.'s S.S.I. Their combined monthly income from these two sources was below the Medicaid program "protected income level" for a household of two persons-- \$700.00.¹

In December, 1991, Mr. O. began receiving Social Security retirement benefits of \$355.00 a month, a substantial increase over what he had been receiving from S.S.I. This brought the petitioners' gross unearned income to \$872.00 a month. After applying all available deductions, (\$20.00) the Department determined the petitioners' net income to be \$852.00 a month.²

Under the regulations, when net monthly income exceeds the protected income level, the difference in monthly income

is multiplied by six to determine the recipients' "applied income" over a six-month period of eligibility. In the petitioners' case, their applied income for the period February 1, 1992 to July 31, 1992 was determined to be \$912.00 (852.00 - \$700.00 x 6).

The petitioners take no issue with the Department's calculations or the information upon which they are based. Unfortunately, their monthly expenses exceed their income, leaving them unable to afford the medications and other medical services they must incur before their applied income level is met.⁴

ORDER

The Department's decision is affirmed.

REASONS

The Department's determination in this matter is fully in accord with the facts and the regulations regarding Medicaid eligibility. See supra. Unfortunately, the board lacks the legal authority to make exceptions to these regulations based on need or extenuating circumstances. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19. Therefore, the Department's decision in this matter is affirmed.

FOOTNOTES

¹See Medicaid Manual § M 240.

²The petitioners are only eligible for the \$20.00 "standard deduction". See Medicaid Manual § M 243.1.

³See Medicaid Manual § M 402. Under the regulations, "applied income" is the "spenddown amount" the petitioners

must incur (not spend) in medical expenses within a six-month period before they become eligible for Medicaid for all their medical expenses in excess of this amount during the same six-month period. The applied income figure is analogous to a "deductible" under a private insurance plan.

⁴The petitioners were advised to apply for general assistance if, at any time, their inability to purchase medical care constitutes an "emergency". See W.A.M. § 2602(d).

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