

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,826
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare finding her and her husband ineligible for Medicaid until they meet a "spenddown" of \$3,277.00. The issue is whether the Department's decision is in accord with the pertinent regulations.

FINDINGS OF FACT

The petitioner and her husband are both recipients of Social Security disability benefits and both have additional income from part-time work. Their total monthly income (gross) exceeds \$1,700.00. Prior to February 1, 1993, the petitioner's and her husband's Medicaid was determined separately because they were not married. When they got married, the Department began calculating their Medicaid benefits as a household of two persons, combining their income and resources. The marriage also resulted in the loss of the petitioner's SSI because her husband's income was then included in determining her eligibility for that program as well.

It also appears that prior to February 1, 1993, the Department did not take into account (though the petitioner's

husband maintains he reported it) the couple's earned income from their employment. This combination of changed circumstances resulted in the petitioner and her husband going from having an "applied income" (see below) of \$0 and \$14.00 respectively as separate Medicaid households to having a combined applied income as a couple of \$3,357.00. Needless to say, the petitioner and her husband were shocked and dismayed when informed of this increase.

At a hearing held on April 7, 1993, the matter was continued to allow the Department to make sure it had given the petitioner every deduction from income that she and her husband may have been entitled to. This did result in a lowering of the applied income slightly to \$3,277.00, but the petitioner is still aggrieved by the overall result.

ORDER

The Department's decision is affirmed.

REASONS

The Medicaid regulations require that the resources and incomes of recipient couples be combined and compared to the resource and income maximum levels for two persons. Medicaid Manual (M.M.) § M221. In determining a couple's eligibility, if their net income over a six-month period exceeds the "protected income level" (PIL) under the regulations they are not eligible for Medicaid until they have incurred (not spent)

medical expenses in that six-month period in the amount that their net income exceeds the PIL. M.M. § 400 et seq. This is called their "applied income" or "spenddown" amount. In this case, the hearing officer has reviewed the Department's calculations and the pertinent regulations, and has determined that the Department's decision is correct.

Unfortunately, the petitioner and her husband appear to have suffered from an unusual combination of circumstances that resulted in a drastic increase in their spenddown as of February 1, 1993. First of all, they got married. This meant that they were no longer separately eligible for Medicaid as individual households. It also resulted in the loss of the petitioner's SSI, because her husband's income made her ineligible for that program as well. (It appears, however, that the petitioner offset this loss somewhat by taking a part-time job at around that same time.) The biggest change, however, was that the Department began counting both the petitioner's and her husband's earned income. (It is not clear--and is not the subject of any action taken by the Department--who was responsible for the Department not counting this income before.) This amounts to more than \$750.00 a month that was not counted previously. Had it been, the petitioner and her husband would have had much higher spenddown amounts previously, and probably would not have been shocked so much by the recent redetermination of their

eligibility. The petitioner and her husband maintain that they are being penalized for the Department's mistake in not counting this income previously. While this view is understandable, in the long run they are actually beneficiaries of the mistake because the Department cannot recoup any benefits they received prior to February, 1993, to which they may not have been entitled.

At any rate, because the Department's decision is in accord with the pertinent regulations, the board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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