

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,263

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her medicaid benefits due to excess resources 60 days after the petitioner gave birth to her youngest child. The issue is whether the Department's decision is in accord with its regulations regarding eligibility of pregnant and post-partum women.

FINDINGS OF FACT

The facts are not in dispute. Sometime prior to June, 1993, the petitioner began receiving medicaid based on a provision in the regulations (see infra) under which women with incomes below 185% of the federal "poverty line level" are eligible for medicaid during and up to 60 days after a pregnancy without being subject to a "resource test". At all times relevant hereto the petitioner has had resources in excess of the \$1,000.00 maximum under the regulations.⁽¹⁾

The petitioner gave birth to her child on June 25, 1993. The Department terminated her medicaid effective August 29, 1993.⁽²⁾

The petitioner acknowledges the limits of the regulations, but maintains that an exception should be made in her case because she is still receiving medical treatment (and incurring bills) for complications related to her pregnancy.

ORDER

The Department's decision is modified. The petitioner's medicaid is continued through August 31, 1993, but not thereafter.

REASONS

Medicaid Manual (MM) § M300G provides that women with incomes below 185% of the federal "poverty line level" are eligible for medicaid during and up to 60 days after a pregnancy without being subject to a "resource test". MM § M322 provides:

A pregnant woman is categorically eligible for Medicaid when her pregnancy has been medically verified; she remains categorically eligible for an additional 60 days beginning on the day her pregnancy ends with the following limitation. Although a woman may be granted up to three months retroactive coverage if she was pregnant and met all eligibility criteria, she is not eligible for the 60-day post-pregnancy period if she applies after her pregnancy had ended. She may, however, be eligible after her pregnancy ends based on another categorical criterion or coverage provision and a different income test. Eligibility for the post-pregnancy period ends on the last day of the month during which the 60th day falls.

(Emphasis Added.)

Although the Department's termination of her medicaid appears to have been two days premature, there do not appear to be any exceptions to the 60-day-post-partum eligibility limitation based on medical need. The petitioner was advised at the hearing that if she spends down her resources on medical bills and other basic needs to below the \$1,000.00 maximum, she should immediately notify the Department and reapply for benefits.⁽³⁾ However, inasmuch as the board is required by law to uphold decisions by the Department that are in accord with the pertinent law and regulations the Department's decision in this case is modified only to the extent discussed above. 3 V.S.A. § 3091(d) and F.H. Rule No. 17.

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1. See Medicaid Manual § M340 and Welfare Assistance Manual (W.A.M.) § 2260.
2. Under a separate provision in the same regulations, the petitioner's child remains eligible for medicaid (provided the petitioner's income remains less than 185% of poverty level) until its first birthday.
3. If the petitioner incurred medical expenses on August 29, 30, or 31, 1993, she should immediately submit these claims to medicaid.