

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 12,334

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Appeal of )

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare terminating Medicaid provided transportation services based on her ownership of and ability to drive a car.

FINDINGS OF FACT

1. The petitioner is an elderly woman who is a Medicaid recipient. She undergoes treatment on a regular basis for both anxiety and arthritis of her hands, hips and knees. She lives about fifteen miles from the site of the bulk of her medical appointments, although occasionally she must travel a much longer distance to see specialists.
2. The petitioner has been receiving transportation to her medical appointments for some time. However, after a review of her situation this last summer, the Department determined that she should not have been receiving these benefits because she owns a car. She was sent a notice of that decision on September 3, 1993.
3. The petitioner does own a car and has since 1982, a fact which she says she has never kept from the Department. Her current vehicle is a late model compact car which she owns jointly with a friend. Because she lives out in the country, she purchased the car to provide transportation for shopping and other necessary trips. The petitioner has a current valid driver's license and uses the car on a regular basis to go shopping and run other errands.
4. Although she can and does drive the car, the petitioner states that driving always causes her anxiety, especially in winter conditions, that the lack of power steering in the wheel causes her hands to hurt and that, at times, the arthritis causes stiffness in her hands which makes it impossible to even attempt to drive. The stiffness in her right hip and leg also give her difficulty with driving and she avoids long trips altogether. While she is able to plan her shopping trips during good weather and on days when her hands

are relatively pain free, she cannot do the same for her doctor's visits which are planned ahead. In recent months, she has had to cancel visits when she felt that she was unable to drive.

5. In support of her position, the petitioner presented statements from three of her treating physicians which stated, in pertinent part as follows:

(a) Physician Number One-"In Dorothea's best interest she should be driven to her doctors appointments... [Her] problems include -1. Anxiety state. 2. Osteoarthritis of hips and knees and hands. 3. Hypothyroidism. With exacerbations of problem #2 she feels she is not able to drive. Request transportation to doctor's appointments when necessary."

(b) Physician Number Two-(an orthopedic surgeon) ..."She does have a plethora of braces, inlays and God knows what all because of the arthritic condition of this left knee, but what she does need is a knee replacement on that side...The knee itself, as I said, is unstable, loose and obviously degenerative. I will let her decide as to exactly what the next step is, but I would think that somewhere down the line at age 66 that knee surgery would be the best and most definitive corrective measure."

c) Physician Number Three-"In my opinion, [petitioner] is not always able to drive because of her disabilities related to anxiety state and osteoarthritis. In my opinion, in her best interest, she should be driven to her doctor's appointments. I have been caring for [petitioner] since 1982."

6. Based on the above, it must be concluded that the petitioner is frequently unable to drive due to hand and hip pain and anxiety and needs reliable transportation to her medical appointments.

### ORDER

The Department's decision is reversed.

### REASONS

The regulations governing the Medicaid program provide as follows:

Transportation to and from necessary medical services is covered and available to eligible Medicaid recipients on a statewide basis.

The following limitations on coverage shall apply:

...

2. Transportation is not otherwise available to the Medicaid recipient.

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The Department relied on paragraph two of the above regulation to deny the petitioner stating that "because you have a car which you are apparently able to drive, you have transportation available to you." (Commissioner's Review, dated October 22, 1993.) While it is true that the petitioner has a car, the facts developed in this matter indicate that she is not able to drive at all at times and that at other times

she is able to drive only with considerable anxiety and pain. It must be concluded, therefore, that even though she owns a car, transportation is not always available to the petitioner because she either cannot drive or cannot drive without exacerbating or compromising the very conditions for which she seeks treatment. As the petitioner does not have other readily available transportation for her medical visits, she must be found eligible for transportation services.

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