

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 12,488

)

Appeal of )

)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her medicaid. The issue is whether the petitioner was a resident of Vermont after September 1, 1993.

FINDINGS OF FACT

The facts are not in dispute. Prior to September 1, 1993, the petitioner, her husband, and their three children lived in Vermont and received medicaid. On September 1, 1993, the family moved to Connecticut because the petitioner's husband secured a job there. The family found a house and the petitioner's oldest child enrolled in school. At that time the petitioner was eight months pregnant.

The Department learned of the petitioner's move when an unrelated notice it sent to the petitioner in September, 1993, was returned with a Connecticut forwarding address. On September 27, 1993, the Department sent the petitioner (at her Connecticut address) a notice terminating the family's medicaid as of October 6, 1993, because they were no longer Vermont residents.

The petitioner's due date for the birth of her baby was October 4, 1993. On September 28 or 29, 1993, the petitioner decided to return to Vermont to have her baby in Vermont. She brought her two youngest children with her and stayed with friends. Her husband and her oldest child remained in Connecticut.

The petitioner did not give birth, however, until October 13, 1993. On October 16th she and the children that were with her returned to Connecticut, where they have resided ever since.

Shortly after that the petitioner applied for medicaid in Connecticut. This application was denied because of her husband's income. On December 3, 1993, the petitioner appealed the decision by the Department terminating her Vermont medicaid as of October 6, 1993.

After a hearing held on January 24, 1994, the hearing officer continued the matter to make sure that Connecticut considered the petitioner a resident of that state as of October 6, 1993. It appears from a notice the petitioner received from the Connecticut Department of Social Services that that agency's

decision was based solely on the petitioner's income--not her lack of residence. At a hearing on March 9, 1994, the petitioner was advised of the medicaid "spend-down" provisions, and that she should bring her Vermont hospital bill (and any other medical expenses incurred by the family after October 6, 1993) to the attention of the Connecticut agency to redetermine whether she might be financially eligible in that state.

### ORDER

The Department's decision is affirmed.

### REASONS

Medicaid Manual § M312 includes the following provisions:

#### State Residence

An individual must be a Vermont resident at the time he/she receives a medical service for Vermont Medicaid to pay for that service. The service does not, however, have to be given in Vermont.

...

Vermont residence is retained until abandoned; i.e., until the person moves outside Vermont with the intent to live permanently or for an indefinite period outside the state.

Temporary absence from Vermont for any of the following purposes does not interrupt or end Vermont residence: visiting, obtaining necessary medical care, or obtaining education or training under a program of Vocational Rehabilitation, JOBS, or higher education.

...

In this case there is little question that the petitioner "permanently" moved her residence to Connecticut as of September 1, 1993. During her return to Vermont from September 28 to October 16, 1993, she stayed with friends and remained only until her baby was born. There is no

indication or allegation, however, that her "home" and legal address during this period was anywhere but in Connecticut. Hopefully, Connecticut medicaid will ultimately cover at least some of the petitioner's medical expenses incurred after October 6, 1993. However, inasmuch as the Department's decision in this matter is supported by the facts and the applicable regulations, it must be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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