

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,060

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his request for a home upkeep deduction from his income under medicaid. The issue is whether a condominium owned by the petitioner qualifies for such a deduction under the pertinent regulations.

FINDINGS OF FACT

The petitioner is a sixty-five-year-old man who entered a nursing home in early August, 1994, following a stay of several weeks in a hospital. Prior to his hospitalization the petitioner had resided for over a year with his daughter and her family. The petitioner's income consists of a monthly Social Security payment of \$649.00, all of which, except for a modest "personal needs allowance" has been determined by the Department as being available to be applied to the petitioner's nursing home charges.

The petitioner owns a condominium located in another part of the state that is currently rented out, but is for sale. The petitioner maintains that the rental income is sufficient to pay all the expenses on the condo except the

mortgage payments. The petitioner admits that he has no intention of ever returning to the condo to live.

In determining the petitioner's eligibility for medicaid the Department is considering the condo to be rental property, which is not subject under the regulations to a "home upkeep deduction" from the petitioner's monthly income. The petitioner is not disputing the Department's characterization of the property, but he argues that if his social security income was available to pay the mortgage on the condo (instead of being applied to his nursing home bill as it is now) he would be able to settle his debts when the condo is sold and be more financially independent once he leaves the nursing home.⁽¹⁾

ORDER

The Department's decision is affirmed.

REASONS

The medicaid regulations provide that under certain circumstances when an individual is in a nursing home a deduction from monthly income may be allowed for up to six months "to maintain an individual's...home in the community" (emphasis added) Medicaid Manual § M413.1. The petitioner in this case admits that the condo in question is not his home, and that he has no intention of making it such. Although the petitioner's arguments are not unreasonable as matters of policy, the regulations as written are clear that a home upkeep deduction is not allowed for rental property, or any other property that does not constitute a "home".

Inasmuch as the Department's decision in this matter is in accord with the pertinent regulations the Board is bound by law to affirm that decision 3 V.S.A. § 3091(d) and Fair Hearing Rule No 19.

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1. The petitioner maintains he is trying to obtain a Section 8 rental apartment.