

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,190

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her application for general assistance (GA) benefits for prescription medication. The issue is whether the petitioner is under a "catastrophic situation" as defined in the pertinent regulations.

FINDINGS OF FACT

The petitioner is a single young woman with no apparent educational or vocational deficits. On August 26, 1994, she applied to the Department for GA for a prescription medication. At the time, the petitioner's income was under the GA standard of \$269.00 a month for one person.

The prescription in question consisted of a regimen of six monthly injections. Each injection costs \$386.00, plus a \$50.00 fee for her doctor to administer it. The Department granted the petitioner GA to purchase her first injection. Unfortunately, however, the petitioner understood that the Department had approved GA for all six injections.

On October 24, 1994, the petitioner again applied for GA after she had received, but had not paid for, her second injection. The Department denied this application because the petitioner was then working and had income of \$600.00 a month.

At her hearing on November 7, 1994, the petitioner admitted that she had not attempted to work out a payment plan with her pharmacy to be able to obtain her medication in the coming months. She did not allege that her pharmacy had refused to provide the medication without payment in full in advance.

The petitioner also stated that her monthly expenses for food and shelter totalled about \$400.00 a month. The petitioner argued that she should be found eligible for GA for her medication so that she could save her money to be able to afford a more independent living situation.

The hearing officer explained the requirements of the GA program to the petitioner and advised her to reapply for GA if she was without resources and could demonstrate that she could not obtain the

medication without paying for it in full in advance.

ORDER

The Department's decision is affirmed.

REASONS

The regulations provide that an individual with income in excess of the program maximum can only qualify for GA if she has a "catastrophic situation" as defined in Welfare Assistance Manual (W.A.M.) § 2602. That regulation provides, in pertinent part:

Any applicant who has exhausted all available income and resources and who has an emergency need caused by one of the following catastrophic situations may have that need which is indeed caused by the catastrophe met within General Assistance standards disregarding other eligibility criteria. Subsequent applications must be evaluated in relation to the individual applicant's potential for having resolved the need within the time which has elapsed since the catastrophe to determine whether the need is now caused by the catastrophe or is a result of failure on the part of the applicant to explore potential resolution of the problem.

...

d. An emergency medical need. . .

The petitioner fails to meet the above regulation at this time for several reasons. First, it does not appear that the petitioner has exhausted all available income and resources. Second, the petitioner has not explored potential resolution of the problem by seeing if her pharmacy would allow her to receive the medication on account. The petitioner now has monthly income well in excess of her other expenses that is available to pay at least part of the cost of her medications.

Unfortunately for the petitioner, the regulations require her to spend all her available income and resources on meeting her emergency need. The regulations are not designed to allow the petitioner to save her money in order to improve her overall living situation.

If the petitioner's situation changes (e.g., if her earnings are reduced or she can demonstrate that after applying all her available income and resources toward her medications she is still unable to obtain them) she should promptly reapply for benefits. As of now, however, inasmuch as 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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