

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,317

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare terminating her Medicaid benefits both because she is financially and categorically ineligible.

FINDINGS OF FACT

1. The petitioner lives with her husband and their eighteen-year-old son who is a high school student. Her husband is unemployed and collects \$52 per week in unemployment insurance. The petitioner herself is employed and earns between \$170 and \$180 per week as a home health aide for Medicaid. The high school student is employed part-time and earns at least \$80 per week. Both the petitioner's and her husband's incomes have gone down recently. Before he was laid off in late November, 1994, he averaged about \$235 per week in gross wages. Before the petitioner's hours were cut back, she averaged about \$230 per week in gross wages.
2. The petitioner's son will turn nineteen in December of this year and is not expected to graduate from high school until June of 1996. The petitioner's son was kept back a year in first grade for academic reasons. The petitioner does not claim that her son was academically disadvantaged due to a disability.
3. Neither the petitioner, who is thirty-six years old, nor her husband, who is forty years old, is disabled. The petitioner, however, has a bad back and is treated ten times per year by a chiropractor. She does not believe she could work without these chiropractic treatments. She has tried to get health insurance both through her husband's employer and her employer to no avail.
4. On December 15, 1994, the petitioner received a notice from the Department of Social Welfare advising her that Medicaid for herself and her family would be terminated as of December 26, 1994. The petitioner and her husband were notified that they were ineligible for benefits because they were between the ages of 21 and 65, were not responsible for the care of a dependent child, and were not

disabled or blind. The petitioner's son was notified that he was ineligible due to excess income and was given a \$639.90 figure as a spend-down amount to become Medicaid eligible.

5. The petitioner does not appeal her husband's disqualification nor her son's disqualification from benefits or the computation of his spend-down amount. She appeals on behalf of herself alone.

ORDER

The decision of the Department is affirmed.

REASONS

The Department's regulations require that Medicaid recipients establish a categorical relationship either to SSI (disability, over 65 years of age, or blindness) or ANFC. M211 and M323. Relationship to ANFC requires that the recipients be parents or relative caretakers of children who, among other things, meet the ANFC age criteria. M323. Age criteria are prescribed in the ANFC regulations as follows:

Eligibility criteria relative to age are established by law (33 VSA 1101 as amended) for children under the ANFC program, as follows:

An individual qualifies under the age criterion as a child if he or she is under 18. In addition, an 18 year old child is eligible if he or she is a full-time student in a secondary school or an equivalent level of vocational/technical training and is expected to complete high school or the equivalent program before reaching his or her nineteenth birthday. Children who are eligible for ANFC on the day before their eighteenth or nineteenth birthday remain eligible for ANFC for

the full calendar month during which their eighteenth or nineteenth birthday occurs.

W.A.M. 2301

The petitioner agrees that her eighteen-year-old son does not meet the above criteria for continued ANFC eligibility. Therefore, it cannot be found that she has categorical eligibility based on a relationship to ANFC. The Department's termination of her benefits on that basis is in line with the regulations. As the Department has a valid basis for terminating eligibility based on category, it is not necessary to determine whether the petitioner is also financially ineligible.

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