

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,563

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare finding him ineligible for medicaid until he and his wife incur medical bills totaling \$1,792.56 in the six-month period beginning April 1, 1995. The issue is whether the Department's decision is in accord with the pertinent regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner and his wife are a household of two persons. The petitioner receives \$735 a month in Social Security Disability benefits. The petitioner's wife, who recently began a job, earns \$614.52 a month in gross wages. After allowing the petitioner all applicable disregards and deductions from income the Department determined that for the six-month period commencing April 1, 1995, the petitioner would not be eligible for medicaid until he and/or his wife incurred a "spenddown" of \$1,792.56 in medical bills.

The petitioner has no dispute with the facts relied upon by the Department in calculating his benefits. The basis of his appeal is his misunderstanding and frustration with the regulation (see *infra*) providing that medical bills that were still covered by medicaid after April 1, 1995, by virtue of the petitioner filing a timely appeal of the Department's decision, cannot be applied toward his spenddown amount.

ORDER

The Department's decision is affirmed.

REASONS

The regulations provide for medicaid eligibility for persons who have excess income in the following circumstances:

A person who passes all eligibility tests, except that his or her Medicaid group's monthly income is more than any of the income tests for which he/she may be eligible (see P-2420 B) may qualify for Medicaid coverage. To do so, he or she must show that his or her Medicaid group has paid or incurred medical expenses . . . at least equal to the difference between its countable income and its Protected Income Level. This difference is called the "spend-down" requirement. Note that a person who does not pass any of the other applicable income tests must spend down to the

Protected Income level and is not permitted to spend down to any of the higher income tests.

Medicaid Manual § M402 (emphasis added).

The petitioner has been advised that he will be eligible once he and his wife spend down \$1792.56 for the six month eligibility period. That is an amount equal to the difference between their countable income and the Protected Income Level. Under the above regulation, however, medical expenses that were covered by medicaid--i.e., that the petitioner and his wife did not incur--cannot be considered deductible expenses that count toward meeting the spenddown. Unfortunately, the petitioner misunderstood this provision when he filed his appeal in this matter.

The petitioner was advised that in the event of an emergency need he can apply for further assistance through the General Assistance program if he and his wife have exhausted their available income and resources. They were also advised to keep track of their medical expenses so the petitioner can become eligible for medicaid as soon as they have incurred their spenddown amount.

However, inasmuch as the Department's decision in this matter 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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