

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,659

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Appeal of)

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DISCUSSION

The petitioner, who was the subject of Fair Hearing No. 13,287, decided by the Board on January 14, 1995 moves to "reopen" that decision. Accompanying the petitioner's request were a brief statement from her doctor that the petitioner's only possibility for achieving a pregnancy would be through in vitro fertilization and extensive medical records documenting her condition.

Unfortunately, the petitioner does not appear to understand that the Board's decision in Fair Hearing No. 13,287 was based on a legal conclusion that in vitro fertilization is not a covered procedure under medicaid, and was not based on any judgement that the petitioner was not deserving of obtaining coverage for this procedure or that the medical evidence of the advisability of this procedure for her was in any way deficient. The petitioner also does not appear to understand that the Board is bound by law to affirm decisions of the Department that are in accord with the applicable law and regulations, and that it does not have the power to change otherwise valid Department regulations and policies.

At this time, the petitioner has made no showing that the Board's prior decision was incorrect as a matter of law. Nor has she demonstrated that the Department's policy of non-coverage for in vitro fertilization is illegal or otherwise invalid. Although the result may seem harsh, the Board simply lacks the legal authority to grant the relief the petitioner is seeking.

ORDER

The petitioner's request to reopen the Board's decision in Fair Hearing No. 13,287 is denied.

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