

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 13,721

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Appeal of )

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare terminating his eligibility for Medicaid based on excess income.

FINDINGS OF FACT

1. The petitioner is a disabled man who receives \$736 per month in Social Security payments. He is divorced and lives alone but sees his children as often as he can. When he became disabled, his court ordered child support of \$300 per month was nullified. Instead, the Social Security Administration pays each of his children \$198 per month based on his disability.
2. The petitioner was a Medicaid recipient but was notified on June 16, 1995 that his income was in excess of the level of protected income for the Medicaid program, which is \$683. His countable income was calculated to be \$716 per month after a \$20 standard deduction for disability was deducted from his monthly check. He was told that as soon as he incurred \$198 in medical expenses during the six month period beginning on July 1, 1995, he would again be eligible for benefits.
3. The petitioner protests the Department's action because he says he cannot now meet his expenses. He must pay \$250 per month for rent, \$80 for gas, \$24 for electricity, \$37 for car payments, \$160 for food and about \$38 for car insurance, for a total of \$590. He has \$5,000 in unpaid medical bills from four major spinal chord surgeries and bad credit. He says he would like his children, aged 13 and 12, to visit his home more but he cannot afford to have them over.

RECOMMENDATION

The decision of the Department is affirmed.

REASONS

Under the Medicaid regulations at M242(1), Social Security income must be included in determining eligibility for Medicaid benefits. Certain deductions, primarily for child support or work expenses, are allowed in order to obtain a net countable income figure, including a \$20 blanket disregard from unearned income for aged, blind or disabled persons. M243.1(2). No deductions are allowed for household expenses.

In this case, the Department followed the applicable regulations to calculate the petitioner's countable income of \$716 per month. He is not entitled to child support deductions because he does not have to pay support out of his Social Security check. He did receive the \$20 disability disregard. Under the procedures adopted by the Department, a group consisting of one disabled person cannot be eligible unless it has \$691 per month or less. P2420-B.

However, under M402, "a person who passes all eligibility tests, except that his or her Medicaid group's monthly income is more than any other income tests for which he/she may be eligible may qualify..." if he can "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." A six month accounting period is employed to make this determination. M414. The Department determined that the petitioner had to incur \$198 before he can be Medicaid eligible. That amount was calculated by taking the difference between the \$716 in countable income and the \$683 protected income level, or \$33, and multiplying that excess by 6 months. As the methodology employed is consistent with the regulations and procedures, this matter must be upheld. 3 V.S.A. § 3091d.

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