

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,119

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying medicaid coverage for a "cardioglide" exercise machine to be used in the petitioner's home. The issue is whether such a machine is covered under the definitions in the regulations regarding durable medical equipment.

FINDINGS OF FACT

The petitioner is a recipient of medicaid based on disability. He has undergone a kidney transplant and has a prosthesis for one of his legs. He has been prescribed an exercise machine called a "cardioglide" that he can use in his home. The petitioner states that he needs the exercise for general conditioning but also to rehabilitate muscles in his arms that were weakened by several surgeries in which tissue was taken from his arms to use for grafts on his leg.

The petitioner admits that similar exercise equipment would probably be available in a gym or at a physical therapy facility, but he states that he only has a few hours each day that he feels well enough to exercise, and that if he was forced to adhere to a schedule to obtain exercise out of the home he would not obtain the same frequency, amount, and quality of exercise.⁽¹⁾

ORDER

The Department's decision is affirmed.

REASONS

The medicaid regulations, at MM § M840, include the following provisions:

Payment may be made for durable medical equipment ordered by a physician for use in the recipient's residence other than a health care institution; i.e., other than in a mental hospital, general hospital, skilled nursing home, intermediate care facility or intermediate care facility for the mentally retarded (ICF-MR). A medical necessity form completed by the physician must accompany the claim submitted

by the provider.

Durable medical equipment is defined as equipment which:

Can withstand repeated use; and

Is primarily and customarily used to serve a medical purpose; and

Is generally not useful to a person in the absence of illness or injury; and

Is appropriate for use in the home.

Exercise equipment is not included in the regulation's "exclusive list" of covered items. To the contrary, the regulation also provides:

Examples of items which are not considered primarily medical in nature and are never covered are . . . exercise equipment. . . .

Despite some apparently compelling medical and economic reasons for covering this equipment under medicaid, it must be concluded that the Department's decision in this matter is clearly in accord with the above regulation. Therefore, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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1. The petitioner argues that purchasing an exercise machine for home use (the petitioner states he was quoted a price of \$244) would be cheaper than physical therapy sessions, which are covered by medicaid under most circumstances.