

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 14,731

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Appeal of )

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating his medicaid benefits until he incurs \$528 in medical expenses in the six month period beginning January 1, 1997. The issue is whether the Department's decision is in accord with the pertinent regulations.

FINDINGS OF FACT

The petitioner, who lives with his wife, does not dispute the Department's determination that the amount of the family's gross income from his Social Security and Essential Person benefits is \$849 a month. Based on this income the Department determined that for the six month period commencing January 1, 1997, the petitioner has a "spenddown" amount of \$528 that he will have to incur in medical bills before he becomes eligible for medicaid.

The petitioner does not dispute the Department's calculations. He is understandably concerned, however, because he has exceedingly high medical bills each month for oxygen and prescription medications, and the household's income is not sufficient to pay the spenddown amount toward these medications and still meet its other necessary household expenses. At the hearing, the hearing officer and the Department advised the petitioner of his possible eligibility for general assistance (GA) if he is without resources to obtain necessary medical services.

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<sup>(1)</sup>) 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 spenddown to any of the higher income tests.

Medicaid Manual § M402.

In this case the record is clear that the Department correctly calculated the petitioner's income and deductions and correctly applied the above regulation to the petitioner's situation. The petitioner certainly appears to be facing a critical financial situation due to his medical condition and his high expenses for medical supplies and medications. Unfortunately, however, the medicaid regulations do not make any special allowances for such situations. The Board is bound by law to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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1. The "Protected Income Level" for a two-person family is \$741 a month.