

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 14,777

)

Appeal of )

)

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare denying his application for Medicaid benefits. The Department has moved to dismiss the appeal for lack of timeliness.

FINDINGS OF FACT

The petitioner was mailed a notice of denial of his application for Medicaid on August 8, 1996, based upon a finding that he was not disabled. The reverse side of the notice advised the petitioner that he could "ask for a Fair Hearing any time up to 90 days after this notice is mailed to you." He did not appeal that determination until January 13, 1997, more than two months after the appeal period expired.

The petitioner offered no explanation for his failure to appeal within the ninety day period, other than he initially thought an appeal would be futile. Apparently, someone later advised him to file the appeal and see what happened.

ORDER

The Department's request to dismiss the appeal is granted.

REASONS

The Human Services Board rules place a limitation on the number of days in which a Medicaid appeal can be filed:

Appeals from decisions by the Department of Social Welfare and the Office of Child Support shall not be considered by the board unless the appellant has either mailed a request for fair hearing or clearly indicated that he or she wishes to present his or her case to a higher authority within 90 days from the

date when his or her grievance arose.

Fair Hearing Rule No. 1

The petitioner missed this ninety day deadline by over two months and was not able to offer a compelling reason why the appeal should not be dismissed for lack of timeliness. The Board lacks jurisdiction to hear appeals that are not timely filed; and the Department's motion is, therefore, granted.

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