

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,780

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating his and his wife's Medicaid eligibility based on excess income until they incur \$96.96 in medical expenses in the six month period beginning January, 1997. The issue is whether the Department's decision is in accord with the pertinent regulations.

FINDINGS OF FACT

The petitioner, his wife, and their minor grandchild all receive Social Security benefits. The petitioner's gross benefit is \$681.80 per month, and his wife's is \$399.80. The petitioner and his wife pay their own Medicare premiums of \$42.50 per month out of their Social Security checks.

The Department allows the petitioner and his wife (the grandson is eligible for the Dr. Dynasaur program and is considered a separate household) to have their eligibility for Medicaid determined on an individual basis using a pro rata share of their total income, while allowing them a dependant care deduction.

The Department calculated the petitioner's and his wife's Medicaid income by adding together their incomes, dividing by two, and comparing that figure to one third of the monthly protected income level for three people of \$875 per month. The difference of \$16.16 was determined to be the amount each of them must incur for medical expenses before they can become Medicaid eligible. That amount multiplied by the six month accounting period resulted in a spenddown of \$96.96 before Medicaid eligibility could be re-established for either of them. There is no question that this is the computation method most advantageous to the household (see infra).

ORDER

The decision of the Department is affirmed.

REASONS

Under the Medicaid regulations at M242(1) the full amount of Social Security income, less Medicare premiums, must be counted in determining eligibility for Medicaid benefits. In this case, the Department followed the applicable regulations to calculate the petitioner's and his wife's countable income in a manner that was most advantageous to them. 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 and his wife each had to incur \$96.96 before they can be Medicaid eligible. As the methodology employed is consistent with the regulations and procedures, this determination must be upheld. 3 V.S.A. § 3091(d) and Fair Hearing Rule 17.

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