

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 10,192  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the decisions by the Department of Social Welfare denying her applications for fuel assistance and counting, for purposes of Medicaid, her child support payments as income.<sup>1</sup> The issue is whether the Department's decisions are in accord with the pertinent regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner lives with her minor child. At present, the family's sole source of income is child support payments of \$230.00 a week.<sup>2</sup> Based on this income, the Department determined that the petitioner was ineligible for fuel assistance. The Department found the petitioner eligible for Medicaid once she incurred a "spend down" amount of \$624.00 in medical bills.

ORDER

The Department's decisions are affirmed.

REASONS

The dispute in this matter centers around the Department's definitions of "unearned income". The regulations for the fuel assistance program define unearned income to include "support or alimony payments made directly

to the household from non-household members". Welfare Assistance Manual (W.A.M.) § 2904.2(3). The petitioner's monthly income is of this type and it is in excess of the maximum for eligibility for fuel assistance.<sup>3</sup>

For Medicaid, the regulations at Medicaid Manual (M.M.) § M 350, include the following:

Income is defined as any cash payment which is not considered a resource which is received by a member of the Medicaid group. Sources of income include, but are not limited to . . . (Emphasis added.)

M.M. § M 351 further defines "unearned income" as follows:

Unearned income shall include the following:

. . .

The full amount of available unearned income shall be counted unless specifically excluded (see Exclusions from Income and Resources) . . . (Emphasis added.)

Neither § M 350 nor § M 351 specifically include child support as an example of income. However, both regulations are clear that unless specifically excluded elsewhere in the regulations, all forms of available "payments" made on a regular basis to the household are to be counted.

"Exclusions from Income and Resources" is defined at M.M. § M 336. That regulation stipulates that "the exclusions from income and resources are the same as those that apply to ANFC applicants . . ."<sup>4</sup> Under the ANFC regulations, child support is clearly included as unearned income. W.A.M. § 2252. (In fact, ANFC recipients must assign to the Department all rights to collect support.)

Inasmuch as the Department's decisions in these matter were in accord with the regulations, they are affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

FOOTNOTES

<sup>1</sup>The petitioner originally appealed the Department's denial of food stamps as well. However, at the hearing she was shown to her satisfaction that child support was included as unearned income for that program.

<sup>2</sup>The petitioner is in the process of applying for Social Security Disability benefits.

<sup>3</sup>See W.A.M. § 2904.1. However, if the petitioner runs out of fuel and money, she may be eligible for "emergency" fuel assistance from the Department.

<sup>4</sup>Certain "exceptions" to M.M. § M 336, set forth in that regulation, do not include child support.

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