

3. The petitioner's medical condition and related circumstances are set forth in the following note from her treating physician, dated June 25, 2007:

Patient is a 20-year-old gravida 2 para 1 with IUP at 31 weeks and three days. Present pregnancy has been complicated by moderate to severe lower back pain most likely related to the bulging disc. The patient also has ongoing pain of pelvic area including symphysis pubis as well as ileal sacrum area. On today's visit the patient requested postpartum tubal ligation. She states that she's engaged with her boyfriend who is the father of her present pregnancy and they strongly desire no more children. This is [petitioner's] second baby. She has an almost one-year-old baby girl and once again does not wish any more children. I did discuss with [petitioner] the risk of regret of sterilization given her young age. Given though circumstances of having two children and what appears to be a stable relationship as well as her medical problems with the pregnancy, it is not unreasonable to consider this form of contraception. I will continue to counsel the patient regarding sterilization and if she continues to strongly desire it, will support this decision.

4. Although there may be medical considerations that recommend having the procedure at the time she gives birth, there is no indication that the petitioner's health or welfare will be jeopardized if she waits until she is twenty-one before undergoing the procedure.

ORDER

The Department's decision is affirmed.

REASONS

The Medicaid regulations, at W.A.M. § M616, provide as follows:

Sterilization of either a male or female beneficiary is covered only when the following conditions are met:

The beneficiary has voluntarily given informed consent and has so certified by signing the consent form included in DHEW Publication No. (OS)79-50051 (Female), or (OS)79-50062 (Male), November, 1978 and provided by the Department of Prevention, Assistance, Transition, and Health Access.

The beneficiary is not mentally incompetent.

The beneficiary is at least 21 years old at the time consent is obtained.

At least 31 days but not more than 180 days have passed between the date of informed consent and the date of sterilization except in the case of premature delivery or emergency abdominal surgery. In those cases, at least 72 hours must have passed between the informed consent and the operation.

Inasmuch as the Department's decision in this matter is clearly in accord with the above regulation, and in the absence of any evidence that the petitioner's health is being jeopardized by applying it, the Board must affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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