STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing Nos. 21,078
	)	& L-03/08-95
Appeal of	)	

INTRODUCTION

The petitioner appeals the decisions by the Department for Children and Families, Economic Services Division terminating her from the Medicaid working disabled program, and finding her ineligible for Medicaid subject to a spend-down. The issue is whether the Department correctly determined the petitioner's eligibility according to the pertinent regulations.

FINDINGS OF FACT

1. The petitioner is disabled. However, during the 2006-2007 school year the petitioner was working and was eligible for Medicaid under the Working Disabled Program. Under this program, she was allowed to have monthly income up to 250 percent of federal poverty level (FPL) in determining her financial eligibility for Medicaid.

2. In August 2007 the Department learned that the petitioner would not be returning to work in September and that she had begun collecting unemployment compensation.

3. Based on this change in circumstances the Department determined that the petitioner would be subject to a maximum income level of $858 a month (slightly more than 100 percent of FPL), and that she would be subject to a six-month spend-down amount before she could become eligible for Medicaid.

4. The petitioner appealed this decision on September 5, 2007 (Fair Hearing No. 21,078).[1] A hearing in the matter was held on September 24, 2007. At that time the petitioner reported that she was liable to the school district where she had worked for an overpayment of wages. The Department agreed to consider whether this liability could be taken into account in determining the petitioner's income for purposes of Medicaid eligibility.

5. A telephone status conference was held in the matter on November 11, 2007. At that time the petitioner reported that she had returned to work, and that she was awaiting a decision regarding a reapplication she had filed for the Working Disabled program.

6. At a phone conference on December 19, 2007, the Department orally advised the petitioner that the Department would reimburse her for any Medicare premiums she had paid as

of October 1, 2007 (see footnote 1, *supra*). Although it appeared that the entire matter might be settled (i.e., that the overpayment of wages issue was moot), the hearing was continued pending the Department providing the petitioner and the Board with a written explanation of what had occurred in her case.

7. Having heard nothing from the parties, on February 29, 2008 the hearing officer scheduled another telephone conference for March 28, 2008. On March 6, 2008, the petitioner filed another appeal with the Board (Fair Hearing No. L-03/08-95), which was consolidated with the other pending case and also scheduled for a status conference on March 28.

8. At that status conference the petitioner reported that she was no longer working, that she was receiving unemployment benefits, and that her Working Disabled Medicaid had been closed. The petitioner stated that she did not disagree with any of the Department's determinations as to the amounts and sources of her income. The hearing officer directed the Department to provide a written explanation of the history of the cases and a determination as to the

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[1] The appeal also concerned an issue regarding the petitioner's eligibility for Medicaid payment of her Social Security Medicare premium.

treatment of the alleged overpayment of wages the petitioner said she owes her former employer.

9. In a letter dated April 8, 2008, the Department confirmed that on February 19, 2008 it had notified the petitioner that because she was no longer working, and thus no longer eligible for the Working Disabled program, effective March 1, 2008 she would not be eligible for Medicaid until she met a spend-down amount of $5,134.20. The Department also stated that any alleged overpayment of wages could not be considered as long as the petitioner was not working and wages were not being considered in determining her eligibility for Medicaid.

ORDER

The Department's decisions are affirmed.

REASONS

Under the Medicaid regulations all earned and unearned income is included in determining financial eligibility. W.A.M. § M240. The fact that the petitioner may owe money to her former employer cannot be considered unless this debt affects the amount of income the petitioner actually receives in any given month. As noted above, the petitioner was

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This issue was subsequently resolved.

eligible for Medicaid when she was working. Inasmuch as it is only those non-working months that are at issue in this matter, there is no basis for the petitioner to claim any part of this debt as a deduction from her income in any of those months.

The above notwithstanding, the Social Security and Medicaid regulations contain provisions providing monetary incentives to encourage disabled individuals to work. For Medicaid, the monthly income eligibility maximum for a single individual rises from $883 to $2,178 if the individual qualifies for the working people with disabilities program. See W.A.M. § M200.24, Procedures Manual § P-2420B. As the Board has frequently (and lamentingly) observed, however, the flip side of those incentives is that the *loss* of such earnings are only partially offset by an increase in Social Security benefits, and can, as is the case here, be compounded by the sudden loss of financial eligibility for Medicaid (and the reduction or loss of other benefits, such as Food Stamps).

The petitioner's dismay at this result is understandable, especially since the loss of her job appears to have been involuntary on her part, and she has substantially less income when she is not working. However,

inasmuch as there is no dispute that the Department's decisions in this matter accurately reflected the petitioner's countable income and expenses as of September October 2007 and March 2008, and that her eligibility for Medicaid was determined in accord with the applicable regulations, the Board is bound by law to affirm the Department's decisions. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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