

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. A-11/15-1239  
 )  
Appeal of )

INTRODUCTION

Petitioner appeals the denial of Medicaid eligibility by the Department for Children and Families ("Department"). The following facts are adduced from a hearing held December 9, 2015.

FINDINGS OF FACT

1. Petitioner is over sixty-five and lives with his spouse. Their sole source of income is social security, totaling \$1,385.20 per month.

2. Petitioner and his spouse are co-owners of a 49-acre parcel of land in Westfield with an assessed value by the town of \$50,400. They do not live on the property (which is solely land). There is no mortgage on the property.

3. Notice is taken that Westfield's Common Level of Appraisal as of February 2015 was 99.22 percent.

4. Petitioner applied for Medicaid coverage in April of 2015. After a series of verification requests were completed, the Department issued a notice of decision in November of 2015 denying him Medicaid eligibility, on the

grounds that his resources exceed the \$3,000 limit.<sup>1</sup> Petitioner and his spouse were found eligible for the "Medicare Savings Program," which pays the Medicare Part B premium of eligible beneficiaries.

5. Petitioner contends that the land he owns is "worthless" but he has not attempted to put it on the market nor did he offer an alternative appraisal.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is de novo. The Department has the burden of proof at hearing if terminating or reducing existing benefits; otherwise the petitioner bears the burden. See Fair Hearing Rule 1000.3.0.4.

The sole question here is treatment of petitioner's property. Medicaid for the Aged, Blind and Disabled ("MABD") has both an income and a resource test. See Health Benefits Eligibility and Enrollment ("HBEE") Rules, § 29.00. The MABD rule pertaining to available resources includes real

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<sup>1</sup>The Department's records indicate that petitioner's property was given a value by the Department of \$59,400. This appears to be erroneous, but ultimately immaterial.

property. See HBEE Rules, § 29.07((b)(1)(i)). The general rule on valuing a resource is “[t]he fair market value of the resource minus the total amount owed on it in mortgages, liens, or other encumbrances.” HBEE Rules § 29.08(b)(1). Fair market value with respect to *home equity* is based on the property’s assessed value adjusted by the common level of appraisal. See HBEE Rules § 29.09(6)(i).

The Department’s use of the town-assessed value as a basis for determining the property’s market value is reasonable under these circumstances. In this case, the common level of appraisal in Westfield of 99.22 percent would have only (if slightly) increased the market value assigned to the land. At a minimum, the assessed value of \$50,400 is well above the Medicaid resource limit of \$3,000 for a household size of two. See Medicaid Procedures P-2420.C.1 (Bulletin 15-12, eff. 1/1/15).<sup>2</sup> There is no mortgage or other encumbrance on the property, to deduct from the market value.

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<sup>2</sup> The reference in the Department’s case notes to the land’s value being \$59,400 instead of \$50,400 is presumed to be erroneous. In any event, it is immaterial to the outcome because the applicable resource test is \$3,000.

Therefore, the Department's determination is consistent with the rules and must be affirmed. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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