STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 8714
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her application for Medicaid. The issue is whether the petitioner has refused to cooperate with the Department in furnishing verification of her income and resources. The petitioner's son applied for Medicaid in the petitioner's behalf in April, 1988. While the application was pending, the petitioner died of cancer. Since then, her son has continued to pursue the application in her behalf.[1]

FINDINGS OF FACT

The petitioner is Her Royal Highness Princess Jeanne of Romania. She and her son moved to the United States in 1979 and lived in Vermont since 1982. The petitioner was born an American citizen but lived for several years in Europe where she met, married, but later separated from the Prince of Romania. In Vermont, she and her son lived in a comfortable rental house and drove an expensive luxury car. The son was educated at private schools.[2]

The petitioner's son claims that he and his mother were "maintained" on a modest income provided, essentially gratis, by the petitioner's business associates. The

petitioner was described as an arbitrager who traded on her royalty. According to her son, "she lived for the big deal". He claims, however, that for the past several years no "deals" had materialized. He further maintains that his mother had no resources of her own that were (or are) available to pay her medical bills.

Other than his testimony, the only information regarding his mother's resources the petitioner's son has provided to date are some bank statements and one brief and cryptic letter from an individual purported to be a business associate of the petitioner. The bank statements are from a local Vermont bank and show that between January and March, 1988, there were several deposits to and withdrawals from an account in the name of "Secretariat", with the petitioner's home address. During the months covered by the statement, the account had balances ranging between $100.00 and $1200.00. At irregular intervals, deposits (six in all) ranging from $200.00 to $1000.00 were made to the account. The last entry in the statements showed a balance in the account on April 7, 1988, of $254.57.

The letter submitted by the petitioner's son is on a letterhead of a Las Vegas, Nevada, building supply company, about which no other information has been offered. The only information relative to the petitioner's finances contained in the letter is as follows:

> "Over the past several years, your mother, the Princess Jeanne and I have tried to make various types

> of deals. As you know, none have resulted in contracts or sales resulting in any revenue. You also know that during the time in the course of business we advanced money to the Princess from time to time against income from future contracts."

At the hearing the petitioner's son, having submitted only the above, testified that he had provided all the information he could obtain regarding his mother's finances. The hearing officer continued the matter to allow the son additional time in which to make further inquiries (which the hearing officer indicated would be necessary) of his mother's business associates. The hearing officer also reminded the petitioner's son and his attorney of the subpoena power available to them under Vermont statues. In a brief note submitted January 3, 1989, the petitioner's attorney indicated only that the son was "unable to gather the documentation you requested", and that he wished the hearing officer to make his recommendation in the matter "based on the evidence we presented".[3]

Based on the evidence, or lack thereof, that the petitioner's son presented, and on his demeanor at the hearing, it is found that the petitioner's son has refused to take reasonable steps to provide information necessary to verify his mothers' finances. The hearing officer deems the son's testimony that he knows nothing more and can obtain no further information about his mother's financial situation to be highly incredible. From the start, it is apparent that the son has taken a minimalist approach in

imparting information to the Department. His actions, or inactions, reveal a conscious and deliberate refusal on his part to cooperate with the Department in obtaining information that is reasonably necessary for the Department to verify before it determines the petitioner's eligibility for Medicaid.

ORDER

The Department's decision is affirmed.

REASONS

Medicaid Manual (M.M.) ə M121 includes the following provisions:

. . .

> When an applicant fails to do his part, an application may be denied if a decision cannot be made within the time limit, for example:
>
> > An applicant fails to give necessary information or proofs asked for or takes longer than expected without explaining the delay; or
> >
> > An applicant fails to have necessary medical examinations asked for.
>
> When an applicant has done everything he was asked to do, the application will not be denied even though a decision cannot be made before the time limit.

Section 126 of the regulations provide, in pertinent part:

> M126 Verification (Proof)
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> Verification means proof of an applicant's statements by written records or documents shown to a Department employee, or by statements of another person who adds to or supports the applicant's statement.
>
> Proof of the following is required:
>
> > All applicants' and recipients' Social Security

numbers. Verification of application for such numbers is an acceptable substitute until such time as the Social Security numbers are received and verified; and

> A medical decision, based on professional examination and judgement, on blindness, disability or incapacity; and
>
> All countable income; and
>
> All resources, when the total in within $200 of the resource maximum.
>
> Proof may also be necessary when the statement form and interview, if one is held, do not give enough clear and consistent information to make a decision on any other eligibility test.
>
> . . .
>
> When an applicant refuses to give necessary proofs, his application may be denied.

In this case it is clear that the Department was in compliance with the above regulations in demanding further information regarding the petitioner's finances. Considering the facts that the petitioner was a crowned head of Europe and that she had lived her whole life, including her last years, in relative economic comfort, it must be concluded that the Department was, and is, being entirely reasonable in demanding more "proof" regarding the petitioner's resources than the vague, cryptic, and scanty information offered to date by her son. As noted above, the claim by the petitioner's son that he is "unable" to obtain this information rings extremely hollow.

Based on the son's testimony and demeanor, the hearing officer seriously doubts that he has, in fact, told the Department all he knows about his mother's finances. Even if he has, however, it is clear at this point that his "ignorance" is determined and deliberate. Therefore, it must be concluded that the petitioner's son has refused to

cooperate with the Department (and the Board) within the meaning of the above regulations. See Fair Hearing No. 8776. The Department's decision is affirmed.

FOOTNOTES

[1]The application, if granted, would cover medical expenses for services the petitioner received prior to her death. The petitioner's son is not himself, liable for any debts of the petitioner's estate.

[2]The petitioner's son, who is in his early twenties, testified that he no longer has use of the house and the car. He lives in an apartment and, despite his impressive education, works at a menial job in a nursing home.

[3]Although entirely irrelevant to and disregarded in the disposition of this appeal, the hearing officer feels compelled to comment that he is deeply troubled that Vermont Legal Aid ever considered this case appropriate for its representation. The matter of the petitioner's background aside, the petitioner was deceased when this appeal was filed. If her son's allegations are true, the estate is judgement proof. The son, himself, admits he has no liability for his mother's debts. The only true beneficiaries of a successful appeal would have been the petitioner's medical providers. In the hearing officer's view, there are simply too many living persons with tangible legal problems who qualify for and deserve the valuable but limited services of legal aid for the agency to justify its time and effort in a case such as this.

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