

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 8776
)	
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's failure to provide timely verification of household income is grounds for the department to deny her application on this basis.

FINDINGS OF FACT

The petitioner is married. In March, 1988, she gave birth to her second child. While she was in the hospital having the baby, a social worker for the hospital filed an application for Medicaid in the family's behalf. The application was filed by mail.

Upon receiving the application, the department's caseworker mailed to the petitioner a request for verification of certain items necessary to allow the department to determine the petitioner's eligibility (e.g., income and social security numbers of household members). When the worker heard nothing from the petitioner after several weeks, despite having sent two follow-up letters to the petitioner, he denied her application. The petitioner did not appeal this decision.

On June 27, 1988, the department received a second application for Medicaid from the petitioner, also by mail.

It is not clear if the petitioner had any assistance in filling out this application. The same caseworker again sent the petitioner a written request for certain information. The notice, dated June 29, 1988, stated that the petitioner had until July 11, 1988, to furnish the requested information. On July 14, 1988, having heard nothing from the petitioner, the worker sent a second request for the same information specified in the first notice. The second notice contained the following printed warning:

If I do not receive the requested verification by 7-28, I will consider this a refusal to cooperate with the department in determining your eligibility and will deny your application for benefits . . .

If you are having a problem getting the verification, please contact me as soon as you receive this letter so we may discuss it. There may be good cause why you are having a problem providing verification, but it is the department's responsibility to make the decision on good cause.

Remember--if I do not receive the requested verification by 7-28, your application will be denied.

On August 1, 1988, the petitioner called the caseworker and told him she needed more time to get some of the information requested by the department. Specifically, the petitioner stated she did not have a verification of her husband's wages from his employer. The caseworker, having not yet made a decision to deny the petitioner application, orally gave the petitioner until August 5th (a Friday) to bring in the verification of her husband's

earnings.

On the following Monday, August 8, 1988, the caseworker having still not heard from the petitioner, entered into his computer the denial of the petitioner's application for Medicaid. Later that day, however, the petitioner's husband called the caseworker. The husband told the worker that he had a statement from his employer as to the total wages he was paid between March and August, 1988. The worker told the husband that this was insufficient--that the department needed a more specific itemization of the husband's dates of employment and periodic earnings. The worker told the husband that the department would hold off sending out the denial letter if the husband could furnish that verification to the department that same day. Unfortunately, however, the husband interpreted the worker's instructions as requiring that the information be furnished to the department within an hour (when the worker, himself, was leaving the office for the day). Because his employer could not furnish the information within an hour, the husband did not call back the department. On August 9, 1988, having not heard back from either the petitioner or her husband, the worker sent out the notice of denial.

On August 10, 1988, having received the denial letter, the petitioner called the caseworker. She did not indicate at that time, however, that she had the information the department was seeking. On September 10, 1988, the

petitioner, having consulted with a legal representative, filed an appeal of the denial.

After the hearing in this matter (held on December 20, 1988) two things were evident. One is that the caseworker bent over backwards to allow the petitioners sufficient time in which to furnish the required information. Second, however, is that both the petitioner and her husband have limited communication skills--the husband cannot read or write; the petitioner was orally quite inarticulate and appeared to be of limited intelligence--and are unsophisticated as to the eligibility requirements of benefit programs. Moreover, these deficiencies probably were not evident to the caseworker, who had had minimal personal contact with either of them. Thus, while there is no indication that the worker acted less than diligently and in good faith, neither can it be found that the petitioner knowingly, intentionally, or with culpable negligence, "refused" to cooperate with the department in furnishing the information that was required.¹

ORDER

The department's decision is reversed. The matter is remanded to the department to determine whether the petitioner is otherwise eligible for benefits.

REASONS

Medicaid Manual § M121 (under "Application Decisions") 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.

The manual section on "Verification (Proof)", M125, includes the following:

Proof documents sent with the statement of need are returned to the applicant as soon as necessary information is recorded. Proof documents may be brought to the interview if one is held. Added proofs asked for after review of the applicant's statement may be sent or brought to the office.

When an applicant refuses to give necessary proofs, his application may be denied. (Emphasis added.)

Reading the above sections in pari materia, and consistently with what the board had repeatedly held to be the refusal-to-cooperate standard in the Medicaid, ANFC, Food Stamp, and Fuel Assistance programs (see Fair Hearings No. 7677, 7448, 7432, 7038 and 6517) it must be concluded that to deny an application for Medicaid on the basis of an applicant's failure to furnish required information there must be a finding that the applicant, in fact, refused to cooperate in obtaining the information.

This instant case is more difficult than those cited above in that based on what this worker was, or reasonably should have been, aware of, he was reasonable in concluding that the petitioner was, indeed, being inexcusably

uncooperative in furnishing the required information to the department. However, with the benefit of hindsight (i.e., considering facts adduced at a de novo appeal hearing), it must be found that the petitioner's problems were caused more by confusion and a lack of sophistication than by any willful or culpably negligent "refusal" to cooperate.

Thus, the requirements of the regulations (supra) are not met.² The department's decision is reversed. The matter is remanded to the department to determine whether or not the petitioner is otherwise eligible for Medicaid for the period for which she claims coverage.

FOOTNOTES

¹There is no dispute that the verification sought by the department was, in fact, reasonable and necessary under the regulations to make a decision regarding the petitioner's eligibility for Medicaid

²It should be noted that even if the regulations (§§ M121 and 125, supra) can be read more restrictively in terms of an applicant's responsibility and culpability, neither section requires the department to deny an application solely on the basis of a lack of cooperation. The department could, if it chose, simply put applications like the petitioner's "on hold" for a period of time (3 - 6 months?) before finally denying them. In the hearing officer's and the Board's view, this would be the better practice.

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