STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,034
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Appeal of)
)

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare denying her Medicaid benefits due to excess income and terminating payment of her Medicare premium under the Qualified Medicare Beneficiary (QMB) program.

FINDINGS OF FACT

1. The petitioner, who is a Medicaid and Social Security recipient, began a trial work period as a grocery store cashier in May of 1999. When her Medicaid worker discovered that fact, she mailed the petitioner a notice dated May 25, 1999, asking her for verification of the amount of income through the provision of paystubs. The petitioner was told that she had until June 6, 1999, to bring or send the information on her wages or face termination of her benefits.

2. The petitioner did not respond by the deadline set above and on June 10, 1999, a notice was mailed to her stating that her last day of Medicaid eligibility would be June 20, 1999, due to her failure to provide information necessary to determining her eligibility. On June 16, 1999, the petitioner was mailed a letter advising her that the Department would no longer pay for any of her costs in

the Medicare program effective June 1, 1999. The Department had been paying a $45.50 per month Medicare premium for the petitioner. The notice did not tell the petitioner why the termination of the Medicare payments had occurred. The Department represented at hearing that it was because she was over-income.

3. The petitioner did bring in the information requested on May 24, 1999, but did not do it until June 29, 1999, after she had already been terminated for Medicaid. At that time, a new application for Medicaid was filled out and the paystubs were attached.

4. On June 30, 1999, the Department sent a notice to the petitioner advising her that her application had been denied due to excess income. The calculation worksheet shows that the Department used the petitioner's unearned $680 Social Security benefit minus a $20 disregard and earned gross wages of $742.56 which was subjected to a $65 and 50% of the remainder disregard for a countable total net income of $998.78. That figure was compared to the $691 Medicaid maximum for a family of two and the petitioner was found to be ineligible. A spend-down of $1,846.68 was established for the next six months by multiplying the difference between her monthly income and the maximum ($307.78) by six. At hearing, the Department modified the spend-down amount by $273 reflecting the $45.50 monthly premiums for Medicare she would incur

herself over the next six months. Her total spend-down was set at $1,573.68.

5. The petitioner thinks that the Department used the wrong income in calculating her eligibility because her hours fluctuate. She says she earns $6.50 per hour and works an average of 22 hours per week so her income is $143 per week or $614.90 per month ($143 x 4.3). However, the paystubs she provided to the Department showed that she made a total of $690.77 during the four week period immediately preceding her application. That figure when spread over a monthly period ($690.77 divided by 4 weeks and multiplied by 4.3 weeks) equals $742.56, the figure used by the Department. Since her paystubs are the best evidence of what she actually makes, the figure used by the Department are accepted as accurate.

ORDER

The decisions of the Department are affirmed.

REASONS

The Medicaid regulations count both gross earned income and disability benefits in determining eligibility subject to certain deductions found in the regulations. M 240 *et seq*. Where a person is disabled and also earning income, the Department subjects the unearned disability benefits to a $20.00 disregard and subjects the

earned income to a $65.00 and one-half of the remainder disregard. M243.1. The two incomes are then combined and compared with the highest applicable income test for the household to determine eligibility. M 250.

The Department's calculations in this case show that the petitioner received both applicable disregards and that her total countable income was correctly found to be $998.78 per month. The Medicaid maximum income for a family of two is $691 per month. P-2420(B)(1). Her income is in excess of that amount making her ineligible for Medicaid unless and until she meets a spend-down amount equal to the difference between her income and the maximum, multiplied by a six-month accounting period, less her medical expenses. M250.1.

The Department correctly notified the petitioner, at least by the date of the hearing, of the exact amount of that spend-down.

The Department's decision terminating the Medicaid is correct under its regulations and must be upheld. The petitioner should be aware that she can provide new paystubs to the Department at any time which she believes reflect a lesser actual wage than the Department has used in its calculations.

The second issue is whether the petitioner's "Qualified Medicare Beneficiary " benefits were incorrectly terminated. Under the Medicaid Regulations, a person who

is entitled to Medicare Part A and who has countable income which does not exceed $922 per month for a two person household can have her Medicaid premiums, deductibles and coinsurance paid by Medicaid. M200(1), P-2420(B)(3). The petitioner was terminated from that program because her new income with her wages is about $75 above that limit. The Department's decision in this regard should be upheld, although the petitioner's due process rights were clearly violated when she was not given the reason for this action in the notice. The hearing officer determined that the petitioner was not prejudiced by this lack of notice by the time of the hearing because QMB eligibility is calculated in the exact same manner as Medicaid eligibility. The petitioner was prepared to discuss her income for the former purpose and was thus, in spite of the Department's error, prepared with the information she needed for the QMB denial. The petitioner should be aware that there are other programs, such as the Qualified Disabled and Working Individuals and Specified Low-Income Medicare Beneficiaries program, for which she may be eligible and which would provide her for some assistance in paying for Medicare related costs. She is encouraged to apply for those programs and have a written eligibility determination made thereon.

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