

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Betty Gindlesperger, :
Petitioner :
v. : No. 273 C.D. 2009
Department of Public Welfare, : Submitted: December 11, 2009
Respondent :

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE MARY HANNAH LEAVITT, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE LEAVITT

FILED: March 9, 2010

Betty Gindlesperger petitions for review of an adjudication of the Secretary of Public Welfare that discontinued her medical assistance benefits for the reason that her income exceeded the eligibility standards. In doing so, the Secretary upheld a final order of the Department's Bureau of Hearings and Appeals (Bureau), which denied Mrs. Gindlesperger's appeal of a decision of the Westmoreland County Assistance Office (County). Concluding that the Secretary did not err, we affirm.

Mrs. Gindlesperger received Medical Assistance (MA) through the Healthy Horizons Categorically Needy Program, which was established for elderly or disabled persons with family income up to, but no more than, 100 percent of the current Federal Income Poverty Guidelines and who are otherwise eligible for MA.

55 Pa. Code §140.201(a).¹ In the course of a routine review undertaken in May 2008, the County discovered that Mrs. Gindlesperger and her husband had each been receiving Retirement, Survivors, and Disability Income (RSDI) since August 2007. Mrs. Gindlesperger was receiving \$392 of RSDI each month, and Mr. Gindlesperger was receiving \$1,115 of RSDI each month. After applying a mandatory deduction of \$20,² the County calculated a net monthly income of \$1,487 for the Gindlespergers. This amount exceeded the maximum household income eligibility standard by \$320. On May 25, 2008, the County sent Mrs. Gindlesperger a notice stating that she was not eligible for MA benefits and, thus, her MA benefits would terminate. Mrs. Gindlesperger appealed.

On July 30, 2008, an Administrative Law Judge (ALJ) assigned by the Bureau to Mrs. Gindlesperger's appeal conducted a hearing. Mrs. Gindlesperger's caseworker testified that the Gindlespergers' net monthly household income exceeded all applicable MA program limits. The caseworker testified that she tried to explain the concept of "spend-down" to Mrs. Gindlesperger; *i.e.*, if Mrs. Gindlesperger accrued a sufficiently large amount of medical expenses, she could "spend down" her excess income on those expenses. The caseworker considered other MA programs but concluded that Mrs. Gindlesperger's household income would disqualify her from those programs as well. Because Mrs. Gindlesperger had

¹ It states:

The Department provides MA under the Healthy Horizons Categorically Needy Program to elderly/disabled persons who are otherwise eligible with family income up to 100% of the current Federal Income Poverty Guidelines and resources not exceeding the SSI resource standard for the appropriate family size.

55 Pa. Code §140.201(a).

² See 55 Pa. Code §181.131(b) (providing a deduction for the first \$20 of income received in a calendar month).

ongoing health problems, the caseworker referred her to the Area Agency on Aging to review her eligibility for MA waiver benefits through that agency.

Mrs. Gindlesperger explained that she had very few medical expenses because she sent her bills to “charity”³ and that her only out-of-pocket medical expenses were for her prescriptions.⁴ Mrs. Gindlesperger did not dispute the income used by the County to determine her eligibility for MA. Nor did she dispute the County’s calculations or applicable legal authority. She claimed only that she does not have enough income to pay for her medical care.

The ALJ held that Mrs. Gindlesperger was ineligible for the Healthy Horizons program, along with all other MA programs, because the Gindlespergers’ net monthly household income exceeded all of the applicable guidelines. The Bureau issued a final action order on August 21, 2008, affirming the decision of the ALJ. On January 16, 2009, the Secretary of Public Welfare upheld the Bureau’s decision. Mrs. Gindlesperger now petitions for this Court’s review.⁵

Mrs. Gindlesperger’s sole argument on appeal is that the County erred in determining that she is ineligible for MA. Mrs. Gindlesperger does not dispute the County’s calculation of her household income, or that it exceeds the limit for the Healthy Horizons program. Mrs. Gindlesperger also does not dispute that she is not

³ Apparently, a charity organization may have paid Mrs. Gindlesperger’s medical bills, but the record reveals no details.

⁴ During the hearing, the ALJ explained the MA for Workers with Disabilities Program (MAWD) to Mrs. Gindlesperger, but Mrs. Gindlesperger claimed that she could not qualify for MAWD because she is unable to work.

⁵ Our scope of review of a final order of the Department is limited to determining whether constitutional rights have been violated, an error of law has been committed, or whether the order is supported by substantial evidence. 2 Pa. C.S. §704; *Goldstein v. Department of Public Welfare*, 654 A.2d 295, 297 n.2 (Pa. Cmwlth. 1995).

eligible for any other MA program at this time. She contends that she should receive help with her medical bills because she lacks sufficient income to pay those bills.

Unfortunately for Mrs. Gindlesperger, the applicable regulations do not support her claim. The RSDI benefits Mr. and Mrs. Gindlesperger are receiving clearly count as unearned income in determining their eligibility for MA. 55 Pa. Code §181.101.⁶ The Department’s regulations state that to receive MA under Healthy Horizons, a two-person household can earn no more than \$1,167, which is 100 percent of the Federal Poverty Income Guidelines. *See* 55 Pa. Code §140.231(a); 38 Pa. Bull. 1644 (April 5, 2008).⁷ The Gindlespergers’ income from their RSDI payments exceeds the limit by \$320. Therefore, the County did not err in terminating Mrs. Gindlesperger’s MA benefits.

Accordingly, we affirm the Department’s order.⁸

MARY HANNAH LEAVITT, Judge

⁶ The regulation states, in relevant part:

Annuities, pensions and other periodic payments which include, but are not limited to, private pensions, social security benefits including Part B Medicare premiums, *disability benefits*, veterans benefits, worker’s compensation, railroad retirement, unemployment insurance benefits, dividends, interest and royalties *are counted as unearned income*.

55 Pa. Code §181.101 (emphasis added).

⁷ The Department’s regulation states that, for the Healthy Horizons program, “net family income after applicable deductions and disregards cannot exceed 100% of the current Department of Health and Human Services Annual Update of Federal Poverty Income Guidelines for the appropriate family size.” 55 Pa. Code §140.231(a). In April 2008, the Department implemented the Federal Poverty Income Guidelines for 2008 as the basis for determining income eligibility limits; for a two-person household, 100 percent of the Guidelines equals \$1,167. 38 Pa. Bull. 1644 (April 5, 2008).

⁸ Mrs. Gindlesperger is not without recourse. As the Department notes in its brief, if Mrs. Gindlesperger’s medical expenses increase, she can reapply for MA and the County will determine if she is eligible to “spend down” her excess income.

