

James Lockwood
Ara mekhjian

FILED
COMMON PLEAS COURT
APR - 4 2012
GUERNSEY COUNTY, OHIO
Dankovic, Clerk of Court

COURT OF COMMON PLEAS, GUERNSEY COUNTY, OHIO

ROBERTA VANHOUGHTON,	:	
	:	
Appellant,	:	Case No: 11-CV-528
	:	
vs.	:	
	:	
OHIO DEPARTMENT OF JOB & FAMILY SERVICES	:	FINAL APPEALABLE ORDER
	:	
Appellee.	:	NO JUST CAUSE FOR DELAY

OPINION

Rendered on April 4, 2012

Roberta L. VanHoughton, pro se, for Appellant

James H. Lockwood and Ara Mekhjian, Assistant Attorney Generals, for Appellee, Ohio Department of Job and Family Services

APPEAL from the Ohio Department of Job and Family Services.

Ellwood, J.

Appellant, Roberta L. VanHoughton was approved for disability by the Ohio Department of Job and Family Services' disability determination area. Appellant's husband has been approved for disability by the Social Security Administration. Appellant's husband's income consists of Social Security Disability Income of \$2,012 per month and retirement income of \$142.58 per month. There is no earned income for the household. Total gross monthly income for the household is \$2,154.58. According to

the Ohio Department of Job and Family Services, the Medical need standard for a couple in 2011 was \$1,011. The Court notes that the Medical need standard for a couple in 2012 is \$1,048.

The Guernsey County Department of Job and Family Services deducted \$20 "income disregard" for the assistant group and is using \$37.94 as recurring medical expenses in the Appellant's Medicaid budget. Using those figures, the Guernsey County Department of Job and Family Services determined a monthly spend down amount of \$1,085.

Pursuant to OAC 5101:1-39-10, an individual is not eligible for the ABD (aged, blind, or disabled) Medicaid program if the individual's "countable monthly income" as defined in paragraph (C)(2) of this rule exceeds the Medicaid need standard applicable to the individual, even though the individual meets all the other eligibility requirements of the ABD Medicaid program. However, the individual may be able to become eligible for Medicaid for a month through the "spenddown process" as provided in this rule. An individual who is subject to the spenddown process is referred to as a "spenddown assistance group (SAG)."

An individual is subject to the spenddown process if she is age sixty-five or older, is blind, or has a disability as defined in OAC 5101:1-39-03 - with the exception of an SSI recipient who is eligible for Medicaid under Section 1619 of the Social Security Act - and has a countable monthly income that exceeds the Medicaid need standard applicable to the individual and is otherwise eligible for the ABD Medicaid program.

“Spendedown assistance group (SAG)” means an individual in a household who is subject to the spenddown process as provided in OAC 5101:1-39-10(B)(1), explained above. If a household contains a husband and wife, both of whom are subject to the spenddown process as provided in OAC 5101:1-39-10(B)(1), the husband and wife together are a two-person (couple) SAG.

“Countable monthly income” is gross earned income and/or unearned income (social security disability) less appropriate disregards. It is compared to the appropriate Medicaid need standard. The amount of monthly countable income determines whether the assistance group is eligible with or without a monthly spenddown liability. The standard deduction for Medicaid purposes is \$20.

When the countable monthly income of an assistance group exceeds the Medicaid need standard, the Guernsey County Department of Job and Family Services must determine whether the assistance group is eligible for Medicaid without any spenddown. If the assistance group is not eligible without a spenddown, then the Guernsey County Department of Job and Family Services must determine if the amount of the monthly spenddown by comparing the remaining income after allowable deduction and disregards to the Medicaid need standard.

In this case, the Guernsey County Department of Job and Family Services found Appellant and her husband to be a two-person SAG, subject to the spenddown process. In Appellant’s first appeal request to the Bureau of State Hearings, which was received by the Bureau on May 27, 2011 and decided on August 29, 2011, Appellant disagreed with the use of her husband’s income by the Guernsey County Department of Job and Family

Services in determining her Medicaid for the disable benefits with a spenddown for the couple of \$1,085. Tanya Miller, the Hearing Officer, sustained the appeal, finding that it was not established if Appellant's husband was in receipt of Medicare benefits and the Guernsey County Department of Job and Family Services did not use a Medicare premium as a deduction in the Medicaid budget. The Hearing Officer could not determine whether the Medicare premium should be allowed as a deduction the couple's Medicaid budget. In addition, the Guernsey County Department of Job and Family Services has deducted \$37.94 as a recurring medical expense in the budget, but it was not established how that was determined. Thus, the Hearing Officer was unable to determine whether the subsequent spenddown liability of \$1,085 after deducting the \$37.94 and the \$1,011 from the countable income of \$2,134 is correct. The Hearing Officer found that although the Guernsey County Department of Job and Family Services' deduction may be correct, it was not shown by a preponderance of the evidence. This appeal was sustained, and compliance was required.

Appellant then requested an administrative appeal of the state hearing decision issued on August 29, 2011, where the hearing officer sustained the Medicaid appeal, finding that the Guernsey County Department of Job and Family Services failed to support the amount of Appellant's spenddown. Appellant appealed because she believed she should not have a spenddown at all.

The administrative appeal was decided October 24, 2011 affirming the state hearing decision and found that both Appellant and her husband are eligible for Medicaid. Based upon OAC 5101:1-39-10 which provides, "If a household contains a

husband and wife both of whom are subject to the spenddown process as provided in paragraph (B)(1) of this rule, the husband and wife together are a two-person (couple) SAG," which are subject to the couple need standard of \$1,011.

Appellant Roberta VanHoughton appealed to this Court on October 27, 2011 from the October 24, 2011 decision. VanHoughton states in her brief that she feels that she is being discriminated against for her disability claim because she is married. She states that their monthly spend-down is impossible to meet because her husband is disabled and living on a fixed income, half of which is to be for the spend-down.

The Court finds that "an appeal from an administrative agency in Ohio is governed by R.C. 119.12, which states in pertinent part: 'The Court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the order to make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law.' The court of common pleas is restricted to determining whether the order is so supported." *Our Place, Inc. v. Ohio Liquor Control Comm.* (1992), 63 Ohio St.3d 570.

"The evidence required by R.C. 119.12 can be defined as follows: (1) 'Reliable' evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonably probability that the evidence is true: (2) 'Probative' evidence is evidence that tends to prove the issue in question; it must be relevant in determining the

issue. (3) 'Substantial' evidence is evidence with some weight; it must have importance and value." *Our Place, Inc. v. Ohio Liquor Control Comm.* (1992), 63 Ohio St.3d 570.

Based upon OAC 5101:1-39-10, the Court finds that the Ohio Department of Job and Family Services is correct in considering Appellant's husband's income in determining the applicable spenddown requirement and that Appellant is subject to the spenddown requirement. Appellant argues that (1) the Ohio Department of Job and Family Services is discriminating against married couples, in applying a spenddown requirement for married couples; (2) the Ohio Department of Job and Family Services should not apply a spenddown due to the couple's financial distress; and (3) the application of a spenddown would be unfair due to the couple's contribution as taxpayers.

The Court finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the Ohio Department of Job and Family Services' order is supported by reliable, probative, and substantial evidence and is in accordance with law. Therefore, the decision of the Ohio Department of Job and Family Services' finding that Appellant and her husband together are a two-person (couple) SAG, which are subject to the couple need standard of \$1,011 is hereby **AFFIRMED**.

Costs are assessed to the Appellant, Roberta L. VanHoughton.

IT IS SO ORDERED.



JUDGE OF THE COMMON PLEAS COURT
GUERNSEY COUNTY, OHIO

PAGE SEVEN
CASE NO. 11-CV-528

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HEALTH & HUMAN

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SERVICES SECTION