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Franklin

Court: Welfare can't be denied over Medicaid

Decision clarifies 'confusing' law

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The state Supreme Court has overturned the city of Franklin's decision to deny welfare to a woman with multiple sclerosis.

The decision means cities and towns cannot deny welfare to disabled residents solely because they receive Medicaid, a state-administered health insurance program for the poor, said Dan Feltes, an attorney with New Hampshire Legal Assistance.

But it doesn't force cities to provide welfare to every disabled person who receives Medicaid, Feltes said. "It just means towns and cities must review the individual's financial situation," he said, "and make decisions on a case-by-case basis."

Feltes said the decision, issued Thursday, enforces an existing obligation cities have to their residents. But that obligation has been interpreted differently by welfare departments across the state.

At issue is the state's Aid to the Permanently and Totally Disabled program. About 8,150 adults receive help through the program - some in the form of both Medicaid and cash payments, according to Terry Smith, director for the state's Division of Family Assistance. The majority, however, only receive Medicaid.

That was Megan Smith's situation. The Franklin woman, who suffers from multiple sclerosis, received Medicaid through the Aid to the Permanently and Totally Disabled program. When she asked Franklin for help paying her utility bills, the city denied her application, pointing to a state law that bars people who get Aid to the Permanently and Totally Disabled from also getting other forms of aid from the state or city.

But Feltes, who's representing Smith, argued that the law referred only to the cash payments that some people in the program receive - Smith not among them. The justices sided with Feltes, drawing a distinction between cash and medical assistance.

Local welfare directors are studying the decision and what it means for their departments, said Jackie Whatmough, the director of Concord's human services department.

So far, she said, the answer isn't clear.

"You should have seen all the e-mails flying around between welfare directors," said Whatmough, who's on the executive committee of the New Hampshire Local Welfare Administrators Association. The law in question, she said, has "always been on the books, and it's always been confusing."

Concord previously has denied welfare to people receiving cash from the state, but not Medicaid, and Whatmough viewed the court decision as reinforcing the city's practices.

"In other towns, it depends on how they've interpreted the law," she said. "Other towns say if you're on Medicaid, you're not eligible."

Franklin Welfare Director Sharon Stephen said that the city has denied welfare to other residents in situations similar to Smith, though "it wasn't that usual," she said.

The city welfare department views itself as a last resort with limited tax dollars to spend, Stephen said. She said the court's decision "will definitely affect every town and city."

Still, Stephen said she was glad to hear of the decision. "It really makes it so every welfare office will be interpreting that RSA that same

way," she said. "We are not attorneys, and it's very difficult when you have laws that are subject to misinterpretation by the way they read."

At the time she applied for welfare, Smith's monthly household income was \$954: \$777 in federal Social Security disability benefits, and \$177 in federal Supplemental Security Income split between her and her husband. Her utilities were in danger of being shut off, Feltes said.

"A Medicaid card is not an ATM card," he said. "You aren't able to get help at a time of desperate need."

The state's welfare laws were based on English poor laws, and "the concept is that a community helps people in a time of need," Feltes said. "Medicaid, coming into existence, did not change that obligation."

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