

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,897

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare finding that his son is ineligible for Medicaid benefits.

FINDING OF FACTS

1. The petitioner is the father of a high school senior who turned eighteen on August 4, 1995. Until October 1, 1995, the petitioner's son lived with him in a two person household. Since that time he has lived with his mother, the petitioner's ex-wife.
2. The petitioner's income during 1995, consisted of \$783.65 per month in Social Security benefits. His son also receives \$486 per month in dependent's benefits from the Social Security administration. The son was found eligible for the Medicaid program under the Dr. Dynasaur program. 3. On August 8, 1995, the Department notified the petitioner that his son was no longer eligible for Dr. Dynasaur because he had turned eighteen. At that time, the son, as a person under twenty-one years of age, was considered categorically eligible for Medicaid as an ANFC-related case. For financial purposes, his eligibility was determined under a new formula which required adding his own income of \$486 per month to half of his father's income, which was deemed available to meet his medical expenses, for a total countable income of \$877.83. That figure was compared to half of the protected income level for two, or \$341.50, to obtain an excess figure for his income of \$536.33 per month. That monthly figure was multiplied by six months to obtain a final spend-down amount of \$3,217.98.
4. The petitioner feels that the spend-down is way too high and that his son will never be able to meet it and obtain Medicaid. His son needs Medicaid because he has epilepsy and must buy drugs which cost as much as \$122 per month.

ORDER

The decision of the Department is affirmed.

REASONS

The petitioner's son was eligible under the Dr. Dynasaur program until he was eighteen because that program uses a relatively high income test (225% of poverty level) which found him eligible for Medicaid as long as his family had less than \$1,881 in monthly income. P-2420 (B)(6) He can not be eligible under that program after his eighteenth birthday but is still categorically eligible for Medicaid because he is under twenty-one years of age. M321.

However, the son's income is calculated differently and a different income eligibility test is used in his new situation. The son's countable income is determined by adding his own income to a "pro-rata share" of the countable income of a financially responsible relative with whom he lives. W.A.M. 330. A pro rata share is calculated "by dividing the countable income. . .by a number equal to the individual plus all individuals for whom he/she is financially responsible." W.A.M. 330.

The son's income is thus equal to the sum of his own unearned income, \$486, and half (the pro rata share) of his father's income, or \$391.83, for a total of \$877.83. That income must be compared to the applicable test. Because the petitioner lives with his father, they must both be considered part of the Medicaid group when his eligibility is determined. M332.1. The petitioner's Medicaid group size is thus two. The test applicable then would be the protected income level test for two found at P-2420B which is \$683 per month. That income test figure must be divided by the number in the group size, or, in this case, two. M330. \$683 divided by two is \$341.50. That is the income test which the petitioner must now meet to be eligible for Medicaid.

The petitioner's income is \$536.33 in excess of the monthly test. However, under Medicaid rules, persons who pass all "eligibility tests, except that his or her Medicaid group's countable income. . .exceed the applicable Protected Income Level (PIL). . .may qualify for Medicaid coverage by using (spending down) the excess amount". M400. As a spend-down period is six months long, the petitioner must incur \$3,217.98 (\$536.33 x 6) before he can become eligible for Medicaid again.

The petitioner should be aware that his son's eligibility could be different now that he has gone to live with his mother and he is urged to reapply to see if his eligibility might change since his mother's income would now be attributed to him on a pro rata basis. The petitioner should also be aware that should his son choose to live outside of the home of his parents or siblings, his eligibility for Medicaid could be determined based solely on his own income and he would not be required to include anyone else in his Medicaid group. Under his present income scenario (\$486 per month), the petitioner would meet the Medicaid income test which would be set at \$683 per month. As it now stands, the Department's decision appears to be based on accurate information and upon the calculations required by its regulations. It is, therefore, affirmed. 3 V.S.A. § 3091(d).

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