

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 16,354
)
Appeal of)
)

INTRODUCTION

The petitioner appeals the decisions by the Department of Social Welfare terminating his eligibility for Medicaid and his and his wife's eligibility for VHAP. The issues are whether the petitioner's resources are in excess of the Medicaid program maximum and whether the family's income is over the maximum allowable under VHAP.

FINDINGS OF FACT

1. The petitioner is disabled and receives Social Security benefits of \$679 a month. His wife is employed and as of February 1, 2000 had gross earnings of \$1,418 a month.

2. At a Department review on February 1, 2000, the petitioner indicated that they owned a 1990 passenger van, a 1994 pickup truck, and a 1991 camper trailer. The Department subsequently determined the value of these vehicles to be \$3,150 for the van, \$5,400 for the truck, and \$1,605 for the camper.

The petitioner does not dispute the Department's valuation of the vehicles.

3. The Department determined that only the van was eligible to be exempted as a resource under Medicaid. Because the truck and the camper have a combined value that exceeds the \$3,000 Medicaid resource maximum it determined that the petitioner was no longer eligible for Medicaid.

4. The petitioner's wife represented that she drives the truck to work, which is a short distance from her home, and that the petitioner, who doesn't work, uses both the van and the truck to run errands. They represented that they plan to use the camper to spend part of the winter in Florida. Although they say they used the truck when they recently moved, there was no claim or showing that it continues to be necessary from a medical, employment, or other standpoint for them to own more than one vehicle.

5. For VHAP the Department determined that the combined income of the petitioner and his wife placed the couple over the VHAP income maximum of \$1,383.¹ The petitioner disputes the

¹ Shortly after the hearing, which was held on March 29, 2000, the Department notified the petitioner that based on his wife having recently changed jobs the couple would probably be eligible for the V-Script program, which has a higher income maximum, for help in paying their pharmacy bills.

provisions in the regulations that determine eligibility based on gross income.

ORDER

The Department's decisions are affirmed.

REASONS

The resource maximum for a couple under Medicaid is \$3,000. Procedures Manual § P-2420 C. Under the Medicaid regulations the income and resources of spouses who live together must be counted in determining the financial eligibility of an individual or couple. Medicaid Manual (MM) § M221. The regulations also provide that the equity value of non-liquid resources be used in determining eligibility. MM § M231. The following provision is set forth under "Excluded Resources" at § M234:

The following items owned by the applicant individual or couple, or by a responsible relative, are not considered resources:

. . . .

(4) Automobiles. Other vehicles such as trucks, boats, snowmobiles, etc. may be excluded only if they are used to provide necessary transportation (i.e., another vehicle is unavailable or cannot be used).

In this case, based on the petitioner's representations it cannot be concluded that the truck and the camper he and his wife own are used to provide "necessary transportation" within the meaning of the above regulation.² Inasmuch as the value of these vehicles is not in dispute, the Department's decision that the petitioner is over the Medicaid resource limit is consistent with the regulations.

The VHAP program, unlike Medicaid does not have any resource limitation. Eligibility is determined solely on the basis of income, and spouses who live together must be considered as one VHAP group. WAM § 4001.8. Under the regulations the only deductions from gross income that are allowed are self-employed business expenses (§ 4001.81[d]), a standard employment expense of \$90 (§ 4001.81[e]), and dependent (i.e., children under 13) care expenses (§ 4001.81[f]). Of these, only the \$90 standard employment expense applies to the petitioner's and his wife's circumstances.

The current income maximum for two people under VHAP is \$1,383 a month. WAM § 4001.84 and Procedures Manual

² It appears, however, that under the regulations an unlimited number of "automobiles" can be exempted. Therefore, if the petitioner trades the truck in on a car or van, the second car or van would be considered exempt. If the petitioner does this, he should promptly reapply for Medicaid.

§ P-2420 B(6). As noted above, even with the \$90 employment deduction the petitioner's household income is well in excess of this amount.

Inasmuch as the Department's decisions in this case are in accord with the applicable regulations the Board is bound by law to affirm. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

#