

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 16,928
)
Appeal of)

INTRODUCTION

The petitioner appeals the denial by the Department of PATH of his application for Vermont Health Access Program (VHAP) medical benefits. The issue is whether the petitioner's income is in excess of the program maximum. The facts are not in dispute.

FINDINGS OF FACT

1. The petitioner is single and has gross income from employment of \$1,166.16 a month. He applied for VHAP in January 2001.

2. Upon reviewing the petitioner's eligibility the Department allowed the petitioner a standard deduction from his earned income of \$90, which placed him slightly over the protected income level of \$1,044 for one person.

3. At the hearing in this matter the petitioner was advised to reapply if his earnings from employment are at all reduced.

ORDER

The Department's decision is affirmed.

REASONS

Under the VHAP regulations gross earnings from employment and all unearned income are considered in determining eligibility, and the only deductions allowed are for self-employment business expenses, a standard employment expense, and dependent care expenses. W.A.M. § 4001.81(c). The petitioner is not self-employed. Therefore, the only deduction for him allowed in the regulations is the standard employment expense of \$90. Id. § 4001.81(e). This brings the petitioner's countable income to \$1,076.16 a month.

Under the current regulations (see W.A.M. § 4001.84) the maximum allowable income for one person is \$1,044 a month. Procedures Manual § 2420. Unlike the Medicaid program, there is no provision in VHAP for a determination of "applied income" or a "spenddown", by which the incurring of a predetermined amount of excess medical expenses within a six-month period can trigger eligibility at that point. Inasmuch as the Department's determination in this case is in accord with the regulations, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

#