

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,089  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision of the Department of PATH terminating his and his wife's eligibility for VHAP-Pharmacy benefits due to excess income.

FINDINGS OF FACT

1. The facts are not in dispute. The petitioner, who is 80, lives with his wife, age 77. They both receive Social Security benefits that total \$1,462.74 per month. They also receive Medicare, which does not cover prescription medications. They both have very high prescription drug costs.

2. Following a March 1, 2001 review of their eligibility, followed by a second review on May 7, the Department notified them that they were no longer eligible for VHAP-Pharmacy because their income was in excess of the maximum of \$1,452 for a household of two. However, they were found eligible for V-Script, a program that, unfortunately, requires more onerous co-payments.

3. The petitioner does not dispute any of the figures used by the Department. However, at the hearing in this matter, held on June 7, 2001, they were advised that they are categorically eligible for Medicaid and that they should check with the Department to determine whether they incur uncovered pharmacy and other medical expenses in excess of the spenddown amount for that program.

ORDER

The decision of the Department is affirmed.

REASONS

Under the VHAP regulations, all unearned income is included as countable income for eligibility. W.A.M. § 4001.81(c). There are no deductions for medical expenses in the VHAP programs.

The Department is correct that the petitioner and his wife have countable income of \$1,462.74 per month. The maximum for eligibility under the VHAP-Pharmacy program for a two-person household is \$1,452 per month. P-2420 B (6). Unfortunately, if the petitioner and her husband have income above that figure, even if only by \$10, they cannot be found eligible. W.A.M. 4001.83 and 4001.84. As the Department's

decision is in accord with its regulation, the Board is bound by law to affirm it. 3 V.S.A. 3091(d), Fair Hearing Rule 17.

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