

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,127
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department of PATH terminating his eligibility for VHAP benefits due to excess income.

FINDINGS OF FACT

1. The petitioner lives with his wife and their minor child. The petitioner and his child receive Social Security benefits of \$1,099 a month. In addition, the petitioner works part-time as a proofreader and earns \$100 a month.

2. The petitioner's wife is self-employed. Based on her Schedule C tax return for 2000 the Department determined that she had average earnings of \$1,696 per month.

3. When the Department calculated the petitioner's eligibility for VHAP benefits the petitioner's and his wife's earned income was each subjected to a \$90.00 per month disregard. In addition, they were allowed a child care expense of \$175. This brought his family's countable earnings to \$2,541 a month. The Department notified the petitioner

that his benefits would terminate because the family's income was in excess of the maximum of \$2,256 for a household of three.¹

4. The petitioner does not dispute any of the figures used by the Department. However, he feels that his wife's self-employment income should be based on her net taxable income as reported on her 1040 form.

ORDER

The decision of the Department is affirmed.

REASONS

Under the VHAP regulations, all earned income from wages is included as countable income for eligibility. W.A.M. § 4001.81(c). The regulations specifically define earned income as gross income before taxes, except that for self-employed individuals business expenses are deducted first. W.A.M. § 4001.8(c). The Department correctly calculated the petitioner's wife's income based on her reported income and business expenses.

¹ The petitioner's child remains eligible for Dr. Dynasaur medical benefits.

The only deductions for which the petitioner and his wife are eligible are a standard employment expenses deduction of \$90.00 per month each and a child care deduction of \$175. W.A.M. §§ 4001.81(e-f).

The Department is correct that the petitioner has countable income of \$2,541 per month. The maximum for eligibility under the program for a three-person household with dependent children is \$2,256 per month. P-2420 B (8). If the petitioner's household has income above that figure, it cannot be found eligible for VHAP. W.A.M. 4001.83 and 4001.84. As the Department's decision is in accord with its regulations, the Board is bound by law to affirm it. 3 V.S.A. 3091(d), Fair Hearing Rule 17.

#