

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,160
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department of PATH denying her application for VHAP benefits due to excess income.

FINDINGS OF FACT

1. The facts are not in dispute. The petitioner lives with her husband and two children. The petitioner and her husband received VHAP until May 2001, when they were terminated for failure to pay the program fee. When they reapplied they were determined to be over income. At all times, their children have been eligible for Dr. Dynasaur coverage.

2. The petitioner and her husband are self-employed farmers. Based on their Schedule F tax return for 2000 the Department determined that they have average earnings of \$3,297 per month.

3. When the Department calculated the petitioner's eligibility for VHAP benefits the petitioner's and her

husband's earned income was each subjected to a \$90.00 per month disregard. This brought the family's countable earnings to \$3,117 a month. The Department notified the petitioner that their benefits would terminate because the family's income was in excess of the maximum of \$2,722 for a household of four.

3. The petitioner does not dispute any of the figures used by the Department. The issue in the case is whether the regulations require the Department to count the depreciation of their farm equipment, which they claim as an expense for tax purposes, as a business expense under VHAP. The Department has allowed the petitioners to deduct all the other business expenses that they reported on their tax filings.

ORDER

The decision of the Department is affirmed.

REASONS

Under the VHAP regulations, all earned income from self-employment after business expenses is included as countable income for eligibility. W.A.M. § 4001.81(c). The regulations specifically list the types of business expenses that can and can't be deducted from income. As noted above, the Department

allowed the petitioners all their claimed expenses except depreciation.

W.A.M. § 4001.81(d) includes the following provision:

Items such as personal business and entertainment expenses, personal transportation, depreciation, and payment on the principal of loans for capital assets or durable goods are not allowable business expenses.

(Emphasis added.)

Based on the above, it must be concluded that the Department correctly determined that the petitioner has countable income of \$3,117 per month. The maximum for eligibility under the program for a four-person household with dependent children is \$2,722 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.

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