

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,204
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision of the Department of PATH finding that she is ineligible for Vermont Health Access Plan (VHAP) benefits because she is over-income.

FINDINGS OF FACT

1. The petitioner is a single woman who is currently unemployed due to an injury on the job. She receives workers' compensation benefits of \$1,109.40 per month.

2. The petitioner recently applied for VHAP benefits. She was notified by the Department that her eligibility was denied because she is over income. The Department notified the petitioner that the maximum income is \$1,074 per month for a single person. Her income is in excess of that amount and she is entitled to no deductions.

3. The petitioner appealed that decision asking for special consideration because she is only \$35.40 over the income amount. Her medications cost her between \$150 and \$170 per month.

ORDER

The decision of the Department is affirmed.

REASONS

Pursuant to the Department's regulations, "an individual must be a member of a VHAP group with countable income under the applicable income test" to have financial need and thus be eligible for benefits. W.A.M. 4001.8. "Countable income" includes "unearned income" from "pension and benefits programs". W.A.M. 4001.81(b). Workers' compensation is unearned income and as such is not subject to a \$90 deduction which is accorded to money which is "earned" every month. There are no other deductions (business expenses or child care expenses) for which the petitioner is eligible. See W.A.M. 4001.81.

The applicable income maximum for a one-person household in the VHAP program is \$1,074 per month. P-2420 B8. The petitioner's current income is \$35.40 over that income. Unlike the Medicaid program, there are no provisions in the VHAP regulations for the deduction of medical expenses in determining eligibility or for waiving income limits due to high medical expenses. The Department's decision is correct

under its guidelines and must be upheld. 3 V.S.A. § 3091(d) and Fair Hearing Rule 17. The petitioner is encouraged to keep in touch with the Department about any change in her income which might make her eligible and to inquire in April of 2002 (when annual adjustments in eligibility limits are made) as to whether she might be eligible then.

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