

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,240  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance and Transition and Health Access (PATH) denying his application for Medicaid and VHAP benefits based on excess income.

FINDINGS OF FACT

1. The petitioner was twenty years old at the time he applied for medical assistance through the Medicaid and VHAP programs on July 16, 2001. He was unmarried and had no children of his own. In June of 2001, he had moved back to Vermont from Oregon where he had lived for seven months. He was residing with his parents temporarily while he looked for employment and housing. On July 15, 2001, he broke his wrist in a skateboarding accident at a time when he had no health insurance coverage.

2. The Department of PATH reviewed his application and notified the petitioner on July 25, 2001 that he was not

eligible for any assistance programs because he was over income. Although the petitioner had no income of his own, the Department deemed one-third of his parents' income to the petitioner in calculating his eligibility because they lived together in the same household. The amounts used were \$1,697.17 in grossed earned income, \$994.24 in unearned income (interest, capital gains and an annuity) and \$618 in Social Security benefits. A \$90 employment work expense was deducted from the earned income and the balances were totaled for a final countable income of \$3,219.41 per month. One-third of that amount, or \$778.89, was deemed to the petitioner. That amount was compared with the protected income level for one person living in a three person household which the Department determined was \$294.33 per month. The petitioner was determined ineligible for Medicaid because his deemed income exceeded that \$294.33 per month amount. The petitioner was advised that he would have a \$2,336.01 amount to "spend-down" before he would become eligible for Medicaid. If he could meet that amount, he was advised further, that his parents' resources could pose a problem for him in the Medicaid program. Finally, the notice told him that he was ineligible for VHAP benefits because the household income exceeded standards for a household of three. He was told that he could

reapply for VHAP on his own once he turned twenty-one on September 3, 2001.

3. In a follow-up letter dated August 8, 2001, the petitioner was notified that the Department had determined that his parents have resources of \$67,994.40 and that one-third of that amount was being attributed to him. He was notified that the one-third amount was considerably in excess of the \$1,050 limit for a single person in a household of three. This was cited as an additional ground for denying Medicaid.

4. The dispute in this matter is not about the accuracy of the calculated amounts of the parents' income but whether a portion of their income should have been deemed to the petitioner at all. The petitioner argues that he was only temporarily with his parents and was not usually a member of their household. He continues to live with them during his recovery from his accident and has yet to find employment or another residence. The petitioner was asked to offer some evidence of another residence but could not do so. His family asserts that this policy is unfair in that the petitioner had to go off of his parents' health insurance policy when he was 18 (he was not a student) and yet is ineligible to receive VHAP on his own until he is twenty-one.

ORDER

The decision of the Department is affirmed.

REASONS

Individuals under the age of twenty-one are eligible for ANFC-related Medicaid so long as they meet the financial eligibility requirements. M300 and M321. The Medicaid regulations have specific provisions governing the financial responsibility of relatives:

Financial Responsibility of Relatives

In determining the financial eligibility of an individual for ANFC-related Medicaid, the income and resources of financially responsible relatives shall be deemed available to the individuals for whom they are financially responsible. Financial responsibility of relatives under ANFC-related Medicaid rules is limited to the following:

1. a spouse for his or her spouse when both are living in the same household; and
2. parent(s), stepparent(s) or adoptive parent(s) for his or her (their) unmarried child(ren) under the age of 21 living in the same household unless the child is pregnant or a parent and she (or he) makes a monthly (or more frequent) room and/or board payment to his/her parent(s).

. . .

In this case, the Department counted the parents' income as available to the twenty year old child because he reported to the Department on his application that he was unmarried, had no children of his own and lived in his parents' home. Now the petitioner insists that he should not be determined to live in his parents' home because he was with them temporarily and intended to find his own housing. However, at the time of the hearing, he could not offer any other address which could be substituted as his permanent home. However temporary he intended his residence with his parents to be, the fact remains that he had no other place to call home when he applied for benefits and still continues to reside with his parents. As such, it must be determined that the Department was correct in determining that the petitioner lives with his parents and that their income and resources must be counted in determining his eligibility for Medicaid benefits. The Department was also correct in determining that the income and resources were well in excess of maximums for income (See P-2420B) and resources (see P-2420C).<sup>1</sup>

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<sup>1</sup> The regulations technically require that the parents themselves be included in the Medicaid group when a child applies. See M332.1. Thus, the Department would have been justified in considering this group a three-person household and comparing all of the income (instead of one-third) to the maximum income for a household of three which is \$883.00 per month. P-2420B. Similarly, it could have compared all of the resources (instead of one-third) to the maximum resource level for three which is

The VHAP regulations similarly require that children under the age of twenty-one and their parents must be included together as an applicant VHAP group if "living in the same home". W.A.M. 4001.8. The entire income of the VHAP group is counted including earned income, social security, interest income, annuities and income from capital investments. W.A.M. 4001.81(b) and (c). Earned income is subjected to a \$90 standard employment expense deduction. W.A.M. 4001.81(e). The group's countable income from these sources (after the deduction) must be "under the applicable income test" for an individual to meet the financial need requirement of the VHAP program. W.A.M. 4001.81. The applicable maximum income for a family of three is \$1,829 per month. P-2420B(6). The family's income of \$3,219.41 is considerably in excess of the maximum. Again, the Department was correct in determining both that the parents' income had to be deemed to the child and that the deemed income is in excess of eligibility levels for the program. Thus, the Board is bound to affirm the result. 3 V.S.A. § 3091(d).

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\$3,150. P-2420C. The Department, instead, attempted to minimize the income and resources available to the petitioner by using one-third of the amounts and comparing them to one-third of the maximum standards. While this methodology is helpful in some situations, it did not help the petitioner.