

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,430
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating his Vermont Health Assistance Plan (VHAP) benefits based on his eligibility for Medicare benefits.

FINDINGS OF FACT

1. The petitioner is a disabled man whose sole source of income is \$1,022 per month (\$1,044 as of January 2002) in Social Security benefits. He has been a VHAP recipient for some years but was notified on November 8, 2001 that his benefits would cease as of November 18, 2001 because he was now eligible for Medicare benefits.

2. The petitioner does not disagree that he is now eligible for Medicare benefits and is currently covered under Part A of the program that covers hospital services. However, he will not pay the premium for Part B of the program covering physician services. He feels the cost of \$54 per month is too much for him to handle given his other expenses. His expenses

average about \$1,082 per month including his mortgage, utilities, food, auto loan, credit card debt and personal care. He also owes \$6,000 in back taxes.

3. The petitioner has been found eligible for VHAP Pharmacy benefits, which will help to cover part of the cost of his medications, and a small amount of Food Stamp benefits. He does not receive fuel assistance. He is also eligible for a very small payment (\$3.00) toward his Medicare Part B payment under the Medicaid program.

ORDER

The decision of the Department is affirmed.

REASONS

The VHAP program was created to provide "expanded access to health care benefits for uninsured low-income Vermonters". W.A.M. 4000. Under regulations adopted by the Department, the uninsured requirement can only be met in the first instance if "an individual . . . does not qualify for Medicare". M4001.2.

The petitioner agrees that he does qualify for Medicare. He feels that this disqualification from VHAP is unfair as he still has to pay a premium to receive the full benefits of that Medicare coverage. He also feels that his personal

expenses should be taken into consideration in determining his ability to pay that premium.

There is nothing anywhere in the regulations which takes into account variations in individual's expenses when determining eligibility for the VHAP program. Not even excessive health care expenses are considered under the eligibility guidelines. Persons who meet the income guidelines and other eligibility regulations, including the one involving uninsured status are eligible and those who do not are not eligible. M4001.8. There is nothing built into the regulations which would allow for any discretion in determining who should get these benefits.

Although the petitioner has argued that the Department's position is unfair, it cannot be said that the exclusion of persons from VHAP benefits who have access to Medicare is an unreasonable distinction for the Department to make. Unlike most other low-income persons, those eligible for Medicare receive hospital services for free and have access to physician's services for a relatively low amount per month compared with the cost of private insurance.¹ Most low-income persons have access only to private non-group insurance that

is extremely expensive, usually hundreds of dollars per month.² Given the Department's goal of reaching those most in need--those who have no realistic financial access to comprehensive health insurance³--the exclusion of groups who do have financially realistic access to comprehensive health insurance makes sense.

The Department's decision to terminate benefits in this case was consistent with its validly adopted regulations. As such, its action must be affirmed by the Board. 3 V.S.A. § 3091(d), Fair Hearing Rule 17. Even though he is eligible for Medicare, the petitioner may still be eligible for help through the prescription drug programs, VHAP-Pharmacy and Vscript. He is urged to contact the Department about these programs if he has not already done so.

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¹ The regulation also excludes persons who can obtain health insurance through their parents' health policies or through educational institutions.

² The Board has heard many appeals from individuals who want VHAP but pay for private health insurance. The undisputed facts in these appeals have shown that these private health care premiums start at about \$150 per month and can go up to \$500 or more. The lower premiums tend to be found in policies that have poor coverage and large co-payments and deductibles. See Fair Hearings No. 16,414 and 16,748.

³ See "The Vermont Health Access Plan: A Statewide Medicaid Demonstration Waiver Initiative", February 23, 1995, pp. 1-3.