

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,481
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) finding that she is no longer eligible for the VHAP-Pharmacy program.

FINDINGS OF FACT

1. The petitioner is a seventy-six-year-old woman who had two heart operations and who has a blood pressure disorder. She has prescription medications which cost over \$4,000 per year. She receives Social Security benefits of \$987 per month and a private pension of \$175.10 per month for a total monthly income of \$1,162 per month.

2. The petitioner gets Medicare Part A and Part B benefits and has some private insurance coverage through a retirement plan of her former employer. She pays \$54 per month for the Medicare and \$42 per month for the health insurance. Her health insurance covers prescription drug payments with a \$200 annual deductible and a yearly cap of

\$1,000. Last year, even though she received assistance through the Vscript program, she used up her private insurance by November.

3. The petitioner reapplied for Vscript and VHAP-Pharmacy on November 16, 2001 but was denied on December 7, 2001 because she had other prescription insurance coverage. The Department said that the prior eligibility finding in her favor was in error because it did not realize last year that she had private insurance coverage for prescriptions.

4. The petitioner has mortgaged her house to pay all of her regular bills and is over-extended on her credit cards. Her mortgage repayment alone is \$600 per month and she fears that she will not even be able to pay the deductible on her private health insurance coverage. She also fears that her health insurance will only cover a small fraction of her actual prescription expenses.

ORDER

The decision of the Department is affirmed.

REASONS

The regulations governing the VHAP-Pharmacy program require that an applicant meet certain income eligibility

guidelines in order to be eligible. W.A.M. 3391.74. The petitioner's income of \$1162¹ per month makes her over income for that program which has a maximum of \$1074 per month. P-2420B(6) She does, however, fall within the income eligibility guidelines (a \$1,253 per month maximum) for the Vscript program which pays for certain medications but requires a recipient co-payment. P-2420B (7).

The Vscript program, like all those in the VHAP family, requires that a person be uninsured in order to be eligible for benefits:

An individual whose prescription drug expenses are paid or reimbursable, either in whole or in part, by any plan of assistance or insurance shall not be eligible for pharmaceutical assistance under Vscript. An individual on Medicaid or a VHAP program is already receiving assistance with prescription drug expenses and is ineligible for Vscript.

An individual on Medicare is generally not receiving assistance with prescription drug expenses and is eligible for Vscript. However, no assistance is provided by the program with respect to an individual drug

¹ The program offers deductions from gross income only for work employment and child care expenses, neither of which is applicable here. See W.A.M. 3301.71(e) and (f).

purchase that may be covered in whole or in part by Medicare.

W.A.M. 3201.5

The petitioner's drug expenses are paid or reimbursed at least in part under an insurance program. As such, it cannot be said that the Department's determination that she is ineligible as an insured person is flawed and the Board must uphold it. 3 V.S.A. § 3091(d), Fair Hearing Rule 17. The petitioner has asked if she can receive Vscript if she drops her other insurance. While the regulations in the Vscript program do not appear to disqualify persons for taking such an action², the petitioner would be well-advised to consult with legal aid or the area office on aging before she takes such a step. She may also want to ask the Department for a written opinion on her eligibility before compromising her insurance.

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² Compare the VHAP comprehensive insurance program which contains a 12-month disqualification for those who voluntarily drop insurance. W.A.M. 4001.2.