

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,709  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating her Vermont Health Access Plan (VHAP) benefits based on excess income.

FINDINGS OF FACT

1. The petitioner is the forty-seven year old mother in a four person family consisting of herself, her fifty year old husband, her nineteen year old disabled son and her fourteen year old daughter. Her son receives SSI and is covered by Medicaid. Her daughter is covered through the Dr. Dynasaur program.

2. The petitioner and her husband are VHAP recipients but were notified recently that that they would no longer be eligible due to increased income earned by her husband. The petitioner made a timely appeal and her benefits have continued.

3. The petitioner does not dispute that the couple's income is \$2,491.63 per month from wages and unearned income. Nor does she dispute that they are neither elderly nor disabled. They have no child care expenses in relation to their children.

4. PATH granted the petitioner a \$90 standard earned income deduction from the couple's income. The resulting figure of \$2,401.63 placed the family over the income limit for three persons of \$2,324 per month. PATH notified the family that this figure would disqualify them from VHAP eligibility.

5. The petitioner's husband has a number of health conditions for which he must take fifteen medications at a cost of \$1,000 per month. The petitioner expects that her husband will be covered by health insurance at his new job as of July 22, 2002. She asks that her VHAP insurance be continued until that time.

ORDER

The decision of the Department is affirmed.

REASONS

The VHAP regulations count gross earned and unearned income in determining eligibility subject only to specific deductions found in the regulations. Welfare Assistance Manual (W.A.M.) § 4001.81(b) and (c). The VHAP program subjects earned income to a \$90 standard employment expense deduction. W.A.M. § 4001.81(e). No deductions are allowed by the regulations for medical expenses. Remaining income is compared with the VHAP maximum for the family size (3)<sup>1</sup>, which for the petitioner is 185 percent of the poverty line because she and her husband are the caretaker relatives of a minor dependent child. W.A.M. 4001.84.

The maximum income for a three-person family which contains caretaker relatives is \$2,324 per month. Procedures Manual (P) § 2420(B)(1). The husband's income from his new job has taken the family \$77.63 over the maximum income level for VHAP eligibility. This is truly unfortunate when they have over \$1,000 per month in prescription medications to pay.<sup>2</sup> The petitioner has not argued that the Department is

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<sup>1</sup> The petitioner's nineteen-year-old son cannot be included in the assistance group because he receives SSI benefits. W.A.M. 4001.8. That same regulation precludes counting that SSI income as available to the family.

<sup>2</sup> The petitioner and her husband are not eligible for VHAP Pharmacy or VScript programs because neither of them is elderly (sixty-five years old) or disabled. See generally, W.A.M. 3200 and 3300.

required by law to consider these huge medical expenses. Rather they ask for a discretionary extension of the program until other insurance can begin.

Neither the Department nor the Board is given any discretion under the regulations to continue benefits for persons who are not eligible. The Board is bound to uphold the decision of the Department as it is based on its valid regulations. 3 V.S.A. § 3091 (d), Fair Hearing Rule 17. Fortunately, by the time the Board's decision is effectuated, it appears that the petitioner may have or will be very close to having employer provided health benefits which will cover some or all of his prescription costs.

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