

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,907  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying her application for Vermont Health Access Plan (VHAP) benefits. The issue is whether the petitioner's nineteen-year-old daughter and her income must be included in the assistance group.

FINDINGS OF FACT

1. The petitioner lives with her three children. She has \$1,677 per month in earned income. Her oldest daughter, who is nineteen and has graduated from high school, works and earns \$1,278.80 per month. She has two sons, one who is eighteen and will be a high school senior this Fall and one who is thirteen years old. The petitioner receives \$537.50 per month in child support payments for the eighteen year old and will continue to receive such a payment until he graduates from high school.

2. The petitioner applied for VHAP benefits in late June of 2002. She had been on VHAP benefits before but had been terminated in March of 2002 for non-economic reasons. She did not appeal the March determination.

3. PATH calculated the petitioner's eligibility by adding together her income and her daughter's income less \$90 each. The countable income for the group was determined to be \$3,257.30 per month.

4. The petitioner was notified by letter dated July 11, 2002 that none of the members of her household was eligible for either Medicaid or VHAP benefits based on excess income. The petitioner's youngest child was found to be eligible for Dr. Dynasaur benefits because he is under eighteen and the family's income was within the parameters of that program. The petitioner and her two older children were found eligible for the prescription discount "Healthy Vermonters" program. The family was advised of the amount of medical bills they need to incur to be eligible for Medicaid.

5. The petitioner appealed the above decision to deny the family VHAP benefits because she thinks it was not correct to include her working daughter's income as part of her family's income.

ORDER

The decision of the Department is affirmed.

REASONS

Regulations governing the VHAP program define the group to be assisted as follows:

. . .

A VHAP group includes all of the following individuals if living in the same home:

- a. The VHAP applicant and his or her spouse;
- b. Children under age 21 of the applicant or spouse;
- c. Siblings under age 21, including halfsiblings and stepsiblings, of b;
- d. Parents, including a stepparent and adoptive parents of c., and
- e. Children of any children in b. and c., and
- f. Unborn children of any of the above.

. . .

VHAP 4001.8

Under this regulation, all of the petitioner's children who live in her home and are under the age of twenty-one must be included in the assistance group. She may not pick which children are applying for benefits. PATH was correct in

adding the petitioner's nineteen-year-old daughter to the assistance group.

The regulations require that all of the earned income of the household members less a "standard employment expense" deduction of \$90 for each employed individual be counted in calculating eligibility. VHAP 4001.81(c) and (e) and 4001.82(23). Certain exceptions are set out in the regulations for certain kinds of income but they do not extend to excluding the earned income of nineteen-year-old household members. See VHAP 4001.82.<sup>1</sup> Child Support less a \$50 disregard is also included in calculating eligibility. VHAP 4001.81(b). PATH thus correctly calculated the petitioner's countable VHAP income as \$3,257.30 per month.

The regulations provide that only individuals in a "VHAP group with countable income under the applicable income test" meet the requirement of financial need. VHAP 4001.8. The income limit for a parent in a four-person household is \$2,799 per month. P2420(B)(1). The limit for others in the household is \$2,269 per month. P2420(B)(1). As the family's income is above both limits, PATH is correct that no one in

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<sup>1</sup> The petitioner indicated at the hearing that her eighteen-year-old son had some income that was not counted. The regulations exclude the income of a child under "the age of 19 if such child is a full-time student or a part-time student who works less than full-time." VHAP 4001.82(10).

the family is eligible for VHAP and that only the petitioner's thirteen-year-old son is eligible for the Dr. Dynasaur program which has a \$4,538 limit for a family of four.<sup>2</sup>

The petitioner indicated that her nineteen-year old daughter is contemplating moving out of her household. If that occurs, the petitioner is encouraged to reapply at that time to see if she or any other members of her household might be eligible for VHAP.<sup>3</sup> VHAP 4001.8.

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<sup>2</sup> Although the petitioner's eighteen-year-old son is still ANFC-related for purposes of Medicaid eligibility because he is a high school student expected to graduate before he turns nineteen, he is not eligible for Dr. Dynasaur because it covers only children under the age of eighteen regardless of student status. Dr. Dynasaur Regulation 3001.22.

<sup>3</sup> The income limit (after deductions) for a caretaker in a three-person household is \$2,324 per month, and for a non-caretaker individual is \$1,884 per month.