

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,915  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating his Medicaid benefits due to excess income.

FINDINGS OF FACT

1. The petitioner is a single disabled person who lives in Rutland County and has been a Medicaid recipient for some time. He recently began receiving Social Security disability benefits of \$1,406.00<sup>1</sup> per month. He is about seventeen months away from eligibility for Medicare.

2. The petitioner was notified on June 10, 2002 that his Medicaid benefits would cease as of July 31, 2002 due to the receipt of the Social Security money which put him over-

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<sup>1</sup> A statement submitted by the petitioner at the hearing indicates that his income is \$1,400.06. This discrepancy will not make any difference in the outcome of the case except to reduce the spend-down amount by about \$36 per six-month period. If PATH is wrong in the amount it used, the petitioner is encouraged to document that so a more accurate spend-down amount can be calculated.

income for the program. He was advised that he would have to spend down \$3,768.00 between August 1, 2002 and January 31, 2003 in order to become eligible for Medicaid again.

3. The petitioner does not dispute that he has received Social Security income over the amount found in the regulations but argues that he should be kept on the program due to his high medical expenses. His monthly medications are about \$241.38. His monthly doctor's bills run about \$236.72. His non-medical household expenses consume all but \$17.90 of his income.

4. PATH has notified the petitioner that he is eligible for the Healthy Vermonters program which provides prescription discounts but not for the VHAP program due to his income. The petitioner has not appealed the VHAP determination.

ORDER

The decision of PATH is affirmed.

REASONS

Under regulations adopted by PATH, Social Security benefits of disabled persons must be counted in determining their eligibility as "unearned income." Medicaid Manual(M) § 242. "Unearned income" is subject to a \$20 disregard.

M243.1(2).<sup>2</sup> The result after the deduction is the net countable income. M243.1. In order to be eligible for Medicaid, a disabled individual must pass the "net income test" meaning that it cannot be in excess of the applicable "Medicaid Protected Income Level (PIL)." M240.

The petitioner's unearned Social Security income of \$1,406.00 is countable unearned income which PATH correctly subjected to the \$20 deduction. His net income is thus, \$1,386. PATH also correctly compared that net amount to the Medicaid Protected Income Level (PIL) for a single individual which is \$758 per month.<sup>3</sup> Procedures Manual 2420B. Since the petitioner's income is in excess of that amount, he cannot be eligible for Medicaid and was correctly terminated from benefits.

The regulations provide, however, that any individual may meet the income test if "his or her Medicaid group has paid or incurred medical expenses . . . at least equal to the difference between its countable income and its Protected Income Level." M402. This monthly difference is calculated over a six-month accounting period in order to determine

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<sup>2</sup> Deductions are also available from unearned income for children in the household and for court-ordered support. M243.1(3) and (4). These deductions do not appear to be relevant in this case.

<sup>3</sup> The amount is slightly higher in Chittenden County.

eligibility. M421. For the petitioner the spend-down amount was correctly calculated as \$3,768.00 (\$1,386 (countable income) - \$758 (PIL for one) x 6 months).

The current medical expenses listed by the petitioner make it unlikely that he will meet this spend-down. However, the petitioner should be aware that spend-down expenses would include not only amounts he must spend for physician visits and prescriptions but also amounts he might incur for health insurance, over-the-counter medications and supplies, transportation to medical services and other medical care services as well. See M430-439. The petitioner is urged to report his medical expenses to PATH and to obtain more detail about the deductibility of medical expenses.

As PATH's decision to terminate the petitioner's Medicaid is required by and consistent with its regulations, its decision must be upheld by the Board. 3 V.S.A. § 3091(d), Fair Hearing Rule 17. The petitioner says he has been found eligible for the "Healthy Vermonters" program which provides prescription discounts but has been found ineligible for VHAP based on his income. The petitioner is encouraged to appeal that denial under VHAP if he disagrees with it and also to talk to PATH about his potential eligibility for the V-Script

or Expanded V-Script programs which also assist with prescription payments.

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