

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,922
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating his eligibility for Medicaid benefits.

FINDINGS OF FACT

1. The petitioner is a disabled man who receives \$665 per month in Social Security disability benefits. His wife receives \$429 per month in Social Security benefits but is able to work part-time and receives \$692.21 per month from her earnings.

2. The petitioner takes a lot of medication related to a liver ailment. He is on a list to receive a liver transplant and must take the medications or face serious health consequences. These medications have been paid through the Medicaid program.

3. The petitioner's Medicaid eligibility was reviewed in July of this year following an increase in his wife's earnings. To determine his eligibility, PATH added all of his

and his wife's earnings together but disregarded \$378.60 (\$65 plus 50 percent of the remainder) of the wife's earnings and allowed the household a disabled unearned income deduction of \$20. PATH concluded that the countable family income was thus \$1,387.61. Because that amount is in excess of the \$758 cap for a two-person family, the petitioner was notified on July 26, 2002 that he would not be eligible for Medicaid unless he met a spend-down amount.¹ He was notified that his spend-down amount for the coming six months is \$3,777.66 and that his benefits would cease after August 5, 2002.

4. The petitioner was also notified on July 26, 2002 that he had been found eligible for the Vermont Health Access Plan (VHAP). He was advised that he might have to pay up to \$50 as a six-month program fee for this program and that he would no longer receive VHAP when he became eligible for Medicare Part B benefits.

¹ The petitioner's wife remained eligible for Medicaid because PATH was able to compare her income to a much higher figure (250 percent of poverty level) or \$2,498 per month as a "working disabled" Medicaid recipient.

5. At the time of the initial hearing, the petitioner thought that his minor daughter would be returning to his home. He was told to report any change in household members to the Department as it could affect his eligibility. The petitioner was unable to document that his daughter has returned to the home.²

6. The petitioner fears that he will not be able to afford his prescriptions under VHAP if he is required to pay program fees, deductibles or co-payments as his medications are expensive.

ORDER

The decision of PATH terminating the petitioner's Medicaid benefits is affirmed.

REASONS

The Medicaid regulations require that couples who live in the same home must be considered together when eligibility for Medicaid based on disability is determined and that their income, after appropriate deductions, must be combined and compared to the protected income level for two. Medicaid

² The maximum for a three-person household in Medicaid (outside of Chittenden County) is \$908 per month.

Manual § 221 and 243.1. The deductions available to the petitioner's family are \$20 from the unearned Social Security benefits and \$65.00 and one half of the remainder from the petitioner's wife's earned income. M243.1 (2), (7) and (9).

PATH correctly added all of the petitioner's income and his wife's income together and subjected it to the deductions listed above. As stated above, the regulations require that the resulting figure, \$1,387.61, must be compared to the protected income level for a couple. M221. The protected income level (or the maximum income amount) currently in effect for a couple living outside of Chittenden County is \$758 per month. The petitioner's income is above that amount and so he can no longer be eligible for Medicaid until he meets the spend-down established by PATH.³

The petitioner is still eligible for the VHAP program although he is correct that he will have greater costs for his health benefits, including his prescriptions, under that program. See generally W.A.M. § 4000 et seq. As PATH's decision is in accord with its regulations, the Board is bound to uphold the decision. 3 V.S.A. § 3091(d), Fair Hearing Rule

³ The spend-down is calculated by taking the difference between the countable income and the Protected Income Level and multiplying it by a six-month accounting period. See M414 and 421. PATH's spend-down calculation in the petitioner's case appears to be correct.

17. The petitioner should be aware that when he becomes eligible for Medicare, he may still be eligible for PATH's prescription programs and should contact PATH at that time to discuss the matter.

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