

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,282
)
Appeal of)
)

INTRODUCTION

The petitioner moves to reopen a default dismissal of his case by the Board and to receive a decision on the merits of his appeal regarding his Medicaid termination by the Department of Prevention, Assistance, Transition, and Health Access (PATH).

FINDINGS OF FACT

1. The petitioner is a disabled man who was notified by PATH on November 18, 2002 that his Medicaid benefits would cease as of November 30, 2002 due to excess income. The petitioner was advised at that time that he could become eligible for benefits if he "spent-down" \$864 on medical bills in the next six months.

2. The petitioner appealed that decision on November 27, 2002 and his benefits continued. The appeal was not forwarded to the Board until January 30, 2003. The case was set for hearing on February 27, 2003, but was not heard that day because the petitioner called to say he could not make it

into the hearing office. It was reset for March 27, 2003. The petitioner did not attend the hearing or call in. The Board sent the petitioner a letter on March 31, 2003 notifying him that his case would be dismissed if he did not contact the Board within seven days.

3. The petitioner had not called by April 7, 2003, and was placed on the dismissal list for the Board meeting on April 8, 2003. The Board dismissed his appeal on that day for failure to attend the hearing.

4. On the same day the Board was acting on his case, the petitioner called in to the Board office to ask that the matter be rescheduled. The clerk told the petitioner that the Board had dismissed his case and he would have to move to reopen it. He did make such a motion and that motion was scheduled for hearing on April 24, 2003.

5. The petitioner stated at the motion hearing that he was unable to attend his prior hearing due to mental problems which cause him to be disorganized and a lack of transportation. The petitioner's assertions in this regard were credible.

6. The petitioner has \$985 per month in Social Security disability income which PATH subjected to a \$20 disregard. The remainder, \$965, was compared to the Medicaid income limit

for an individual of \$758 per month. The difference between those two figures, or \$207 was the monthly spend-down amount which was then multiplied by the six month accounting period for a spend-down amount of \$1,242. PATH reduced that spend-down by over-the-counter drug payments (\$54.00) and Medicare premiums (\$324.00) which the petitioner was expecting to have over the next six months for a remaining spend-down of \$864.00.

7. Subsequent to this decision, the petitioner brought in bills from the local mental health service provider to further reduce his spend-down. Although the bills totaled \$1,700, PATH only allowed \$198.28 towards the spend-down because the remainder had already been used to reduce prior spend-downs. The petitioner was notified on December 3, 2002 that his spend-down was now \$565.72.

8. At the conclusion of the April hearing, the petitioner was supplied by mail with a copy of the bills he had submitted containing notations made by PATH of amounts which were being credited to each spend-down period. The petitioner was told that he could point out any errors PATH had made in calculating the deductions within the next week by mail. The petitioner had not offered any corrections by May 8, which was fourteen days after the hearing.

9. The petitioner says that he cannot pay his bills for his mental health and physical care without Medicaid. He is receiving Vscript at present which helps with prescription medications but is not eligible for VHAP because he receives Medicare benefits.

ORDER

The petitioner's case is reopened but the decision of PATH is affirmed.

REASONS

The petitioner did call the Board to present good cause for not attending his hearing and may have done so within seven days of the time he received his "no-show" letter which may have been April 1 or 2. Therefore, it would be fair to give the petitioner a hearing on the merits.

The merits of this case are not complex and they were heard at the same time as the motion to reopen. The petitioner has countable Social Security Disability income of \$985 per month. M220. The only deduction to which this single man is entitled is a \$20 per month standard deduction. M243.1. His net countable income of \$965 must be compared to the maximum income test (the "PIL") for an individual which is \$766 per month. P-2420A. If his income is greater than that

he does not pass the income test for Medicaid eligibility. M250(2). The only way the petitioner can become eligible for Medicaid is by presenting medical expenses which he has incurred that are "at least equal to the difference between the net income and the PIL." M250.1. This amount is called the "spend-down" amount and is calculated on a six month basis. M400, M402, M414. PATH correctly followed these regulations when it calculated the petitioner's spend-down. It also appears that PATH has given the petitioner all the medical deductions that he has presented that were not previously used to meet a spend-down. M423.2. As PATH has acted in accordance with its regulations and the facts at hand, it must be concluded that its decision was correct and the Board must uphold it. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

#