

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,312
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Appeal of)
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INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating her benefits under the Vermont Health Access Program (VHAP) based on excess income. The issue is whether PATH is required to average income over a year's period.

FINDING OF FACT

1. The petitioner is a fifty-one year old secretary for a small private school. Her gross earnings from that job is currently \$1,231.72 per month. Although the school offers health insurance to its employees, the petitioner cannot afford to purchase it. During the summer months and vacation breaks, the petitioner works part-time and earns much less than her usual monthly amount.

2. The petitioner was found eligible for VHAP benefits based on an application during one of her lower salaried months. However, during a review in January, the petitioner reported her usual earnings and was notified by PATH that she

was no longer income eligible for the VHAP program. PATH used the petitioner's December income of \$1,231.72 to project her income out over the next six months, the period of VHAP eligibility. PATH determined that after a \$90 earned income deduction, that the petitioner's net income of \$1,141.71 is about \$18 over the maximum income for a household of one, \$1,123 per month. The petitioner agrees that from January to June, she was likely to have this amount of income.

3. The petitioner presented her income tax statements from last year (2002) which showed that she earned a total of \$13,567.30 for the year. The petitioner argues that with the \$90 per month deduction multiplied over the year, she would have yearly countable income of \$12,487 per year, or \$1,040.58 which is about \$100 under the monthly VHAP maximum.

4. PATH declined to use this methodology and reaffirmed its belief that figures it used were reflective of the petitioner's income for the six-month period for the review application. PATH notified the petitioner that she could reapply at any time that her income goes down.

ORDER

The decision of PATH is affirmed.

REASONS

The rules adopted by PATH for the VHAP program assess income for a six-month eligibility period after which a review is conducted to see if eligibility continues. See W.A.M.

4002.3. Income for purposes of eligibility is calculated as follows:

Income in the month of application (or review) and future months is estimated based on income in the calendar month prior to the month of application (or review) unless changes have occurred or are expected to occur and this income does not accurately reflect ongoing income. If changes are expected to occur, an estimate of income based on current information should be used.

W.A.M. 4001.81

In this case, PATH looked at the petitioner's income for December 2002 and determined that this income was expected to be her "ongoing income" for the next six months, a fact which the petitioner does not dispute. Based on that information, PATH subjected the December income to a \$90 standard employment expense deduction and determined, correctly, that her monthly countable income is \$1,141.71 per month. W.A.M. 4001.81(c) and (e) and 4001.83. That amount must be compared to the income maximum for a one person household which is \$1,123 per month. W.A.M. 4001.83 III, Procedures P-2420B(1). PATH used that regulation and correctly determined that the petitioner is over the income maximum, albeit by only \$18.71

per month. Because PATH's decision is in accordance with its regulations, the Board must uphold the result. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

The petitioner is very close to the income maximum and, as she showed, has fluctuating income which results in a yearly average which would make her eligible for benefits if an annual income calculating methodology were used. The petitioner is urged to speak with her employer about paying her annual income in equal monthly installments in order to avoid the disqualification she faces at certain times of the year.

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