

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,559
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, (DCF) that she is ineligible for Medicaid because she no longer gets the exemptions in the "working disabled" category based on her reclassification as "aged" when she turned sixty-five.

FINDINGS OF FACT

1. The petitioner received Medicaid for many years as a "disabled" person but was recategorized by DCF as "aged" when she recently turned sixty-five and the source of her income changed.

2. The petitioner's income now consists of \$748 per month from Social Security old age benefits, \$301 from a pension and \$242.52 per month from part-time employment. Before she turned sixty-five she had the same working and pension income but her Social Security came in the form of disability benefits amounting to \$733 per month.

3. Prior to this year, because the petitioner was both working and disabled and had combined income under 250 percent of the federal poverty level, she was granted certain deductions from income when she was considered for Medicaid eligibility. Those deductions included all of her earnings and \$500 of her Social Security Disability benefits. The amount of income counted for her each month amounted to \$534 which put her below the \$783 maximum for eligibility in the Medicaid program.

4. When the petitioner began to receive Social Security old-age benefits, she was notified by DCF on June 9, 2003 that all of her income must be counted because she no longer fit into the "disabled" category. Her total income of \$1,276 put her over the Medicaid maximum although she was told that she could become "medically needy" for Medicaid if she met certain spend-down requirements.

5. The petitioner has started to receive Medicare which pays some of her medical bills, but not all of them. She has also been found eligible for the VScript program which helps with her prescription drugs.

ORDER

The decision of DCF finding the petitioner ineligible for Medicaid until she meets a spenddown is affirmed.

REASONS

In addition to its traditional SSI-related coverage groups of the "aged, blind and disabled", DCF created new SSI-related coverage groups by regulation, including "working people with disabilities." The regulation creating that group reads as follows:

The following individuals are eligible for SSI-related Medicaid as categorically needy.

. . .

- (b) Working people with disabilities - Individuals with disabilities who are working and otherwise eligible for SSI-related Medicaid except that their net income:
 - (i) is below 250 percent of the federal poverty level associated with the applicable family size; and
 - (i) does not exceed either the Medicaid protected income level for one or the SSI/AABD payment level for two, whichever is higher, after disregarding the earnings and up to \$500 of social security disability insurance benefits (SSDI) of the individual working with disabilities.

Earnings and SSDI shall not be disregarded for applicants with spenddown requirements.

While the petitioner certainly continues to be "disabled" as lay persons might understand that term, she no longer receives "disability" payments from the federal Social Security Administration (SSDI) but rather "old-age" benefits. Along with those "old-age" benefits she now receives Medicare insurance and, from the state, VScript prescription insurance benefits. DCF has determined that the petitioner no longer fits into the above category because she no longer gets SSDI benefits and has switched her over to the "old-age" category of social security recipients. That decision is consistent with the above regulation.

As a recipient of "old-age" benefits, the petitioner may still obtain Medicaid benefits as a secondary insurance but DCF has advised her, correctly, that she must meet income eligibility requirements used for persons who are categorized as "old-age". Those income requirements do not allow for disregarding her income or \$500 from her old-age benefits. While the removal of those disregards is certainly a disincentive for the petitioner to continue working, it does not appear that the policy of DCF is to encourage the elderly to work. A different policy is in place for younger workers who are disabled. The petitioner has been advised in her

notices that she may still be eligible for Medicaid if she has bills not covered by Medicare and Vscript that meet or exceed a certain spenddown amount calculated from her income.

In light of the actions taken by the Social Security Administration rolling her disability payments over to old-age payments (a slightly higher payment category) and granting her Medicare, DCF was correct in removing the petitioner from its disability-related programs and categorizing her as eligible for only old-age programs. As DCF has acted in accord with its regulation cited above, the Board is constrained to uphold its result finding the petitioner currently financially ineligible for Medicaid. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

#