

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,617
)
Appeal of)

INTRODUCTION

The petitioner moves to reopen a decision of the Board dated October 2, 2003 which was dismissed for her failure to appear at a hearing. The appeal challenged a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) finding that she was no longer eligible for the Vermont Health Access Program (VHAP) due to excess income.

FINDINGS OF FACT

1. The facts in this matter are not disputed. PATH agrees that it did not give the Board the petitioner's current address when it forwarded her appeal and that her failure to attend her hearing was due to a lack of timely notice. PATH does not oppose the petitioner's motion to reopen this matter.

2. The petitioner became unemployed last spring at which time she applied for and was found eligible for VHAP benefits. On June 13, 2003, the petitioner started to receive unemployment compensation benefits of \$321 per week. She duly reported this income to PATH.

3. PATH recalculated the petitioner's eligibility based on her new monthly income of \$1,380.30 (\$321 x 4.3 weeks). Since her entire income was considered "unearned" and the petitioner is not disabled and has no dependent children, she received no further deductions.

4. On July 17, 2003, PATH notified the petitioner that her VHAP coverage would end on July 31, 2003 giving the reason that her income was greater than rules allow.

5. The petitioner appealed that decision and her benefits continued pending a decision by the Board. Following the petitioner's request to reopen the matter due to a lack of timely notice of her hearing, PATH agreed to restore her benefits pending the outcome of her further request before the Board.

ORDER

The Board's prior decision dismissing the petitioner's appeal due to her failure to appear at her hearing is vacated. However, PATH's decision to terminate her VHAP benefits is affirmed on the merits.

REASONS

Under the rules of the VHAP program, an individual has financial need only if she has "countable income under the applicable income test." VHAP 4001.8. The applicable income test for an individual without dependents is \$1,123 per month. P-2420(B). Countable income for purposes of this test includes unemployment compensation which is classified as "unearned income." VHAP 4001.81b. No deductions are allowed from unearned income for individuals without dependent care costs. VHAP 4001.81. PATH correctly calculated the petitioner's monthly countable income as \$1,380.30 per month. That amount is in excess of the \$1,123 applicable income test making PATH's decision that she is no longer eligible correct under its regulations. As PATH's decision is consistent with its regulation, the Board is bound to affirm it. 3 V.S.A. § 3091(d), Fair Hearing Rule 17. The petitioner is encouraged to reapply if her income goes down.

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