

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,726
)
Appeal of)
)

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating her eligibility from the Vermont Health Access Program (VHAP) due to excess income.

FININDGS OF FACT

1. The petitioner is an employed VHAP recipient. Her monthly gross income is \$1,209 per month. Last fall PATH became aware that an elderly woman was living in the petitioner's home. She reported to PATH that the woman pays her \$600 per month for her room and board, which is her entire Social Security check. The elderly woman also gets Food Stamp benefits as a separate household and goes to an adult day care center during the day while the petitioner works.

2. PATH recalculated the petitioner's eligibility and added the entire \$600 to her income. PATH gave the petitioner a \$90 earned income deduction for a countable income of \$1,719

per month. PATH determined that her income is in excess of its maximums for VHAP eligibility.

3. The petitioner was notified on October 13, 2003 that her VHAP benefits would be terminated on November 1, 2003 because her income is more than the rules allow.

4. The petitioner appealed that decision. At her hearing she said that she is the representative payee of the elderly woman and that while she cashes her \$600 monthly check, only about \$300 goes towards paying the rent. The rest of the \$600 is used for personal expenses of the petitioner's roomer including board, utilities, medical expenses and personal items. The petitioner was given an opportunity to present evidence of the amounts actually expended on the elderly woman but she did not do so at the next hearing (February 3) because she had lost her job in the interim and was reapplying for VHAP based on her new income.

ORDER

The decision of PATH is affirmed.

REASONS

VHAP regulations set up a test for eligibility which requires consideration of income not only from earnings but from a home rental business. VHAP 4001.81(c) and (d). Earned

income is subjected to a standard employment expense deduction of \$90 per month. VHAP 4001.81(e). The regulations also allow any expense involved in furnishing room and board in a private home to be deducted from income. VHAP 4001.81(d). PATH can use either the actual expenses provided by the recipient or a standardized amount found in the regulations at P-2420 D2.

Although the petitioner has reapplied for VHAP due to her loss of income, the question remains whether she has been eligible from November 2003 through January of 2004 when she was both employed and had the elderly woman living with her. Since the petitioner has not presented evidence of the actual expense figures associated with her furnishing of room and board, the standardized figures must be used. The petitioner appears to provide room and 2/3 board to the petitioner since the petitioner has some food stamps and likely receives lunch at the day care center. The standardized deduction for room and 2/3 board for an individual is \$210 per month.¹ P-2420 D2.

PATH did give the petitioner the standard \$90 employment expense deduction but did not give her the \$210 deduction for

¹ If the petitioner provided full room and board to the elderly woman, the deduction would be \$257 per month. P-2420 D2.

expenses associated with providing room and board. The petitioner's countable income should have been her earned income of \$1,809 minus the \$90 employment deduction plus her business income of \$600 minus the \$210 room and board expense deduction, totaling \$1,509 per month. Although the petitioner did not get all the deductions to which she was entitled, her total countable amount is still in excess of VHAP monthly eligibility maximums which for an individual is only \$1,123 per month. Therefore, PATH's ultimate decision that the petitioner was ineligible for the period at issue is correct and must be upheld by the Board. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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