

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,800
)
Appeal of)
)

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) increasing her premium coverage under the Vermont Health Access Program (VHAP).

FINDINGS OF FACT

1. The petitioner and her husband are VHAP recipients. On November 24, 2003, they received a notice that their premiums would increase on January 1, 2004 to \$65.00 per month each.

2. The petitioner's family has a gross income of \$2,582.90 per month. The two children receive Dr. Dynasaur benefits. Health insurance is offered by the husband's employer but it costs about \$260 per month and will not be available to the family until June. The family's gross income is reduced by a \$90 per month standard employment expense deduction for a countable income of \$2,492.90. PATH has

determined that the above income places the family between 150 and 185 percent of the federal poverty level.

3. The petitioner says that \$130 per month is too much for her family to pay for health insurance. She is going to school and currently earns no money although she receives child support payments. The family has cut back on their expenses including eliminating their cable TV in order to get by but are still finding it difficult to pay their bills. The petitioner and her husband believe that it would be fairer for PATH to use their net income in calculating their premium amount rather than their gross income.

ORDER

The decision of PATH is affirmed.

REASONS

In response to a legislative directive (Act 66 of 2003) to enact cost-savings measures designed to sustain the public health care assistance programs, PATH adopted regulations establishing monthly "premiums" to be paid prospectively by VHAP recipients beginning on January 1, 2004. VHAP 4001.91, Bulletin No. 03-17F. The regulations were adopted by an expedited rulemaking process authorized by the legislature at section 152a of the above cited Act. An individual whose

household gross income falls between 150 percent and 185 percent of the federal poverty level was paying \$50 per six-month period. After the legislative change, that same individual is required to pay \$65.00 per month for coverage. VHAP 4001.91.

The VHAP regulations require the use of gross income from earnings, that is, the income "prior to any deductions for income taxes, FICA, insurance or any other deductions voluntary or involuntary . . ." VHAP 4001.81(c). However, the regulations subject that gross income to a further standard deduction of \$90.¹ PATH is thus correct that the petitioner's countable income for purposes of VHAP eligibility is the gross income minus \$90, or \$2,492.50.

The petitioner's household's monthly countable income of \$2,492.50 puts them between 150 percent (\$2,300 per month) and 185 percent (\$2,837) of the federal poverty level for a family of four. P-2420B. Under the new regulation, individuals in this category pay \$65.00 per month to be on the VHAP program. VHAP 4001.91. For this family the cost of their annual VHAP

¹ The regulations also allow deductions for dependent care expenses but no evidence was offered that the petitioner has such expenses. If the petitioner does have such expenses, they should be reported to the worker for a recalculation of her countable income.

health insurance has gone from \$200 to \$1,360 under this new premium schedule.²

Although this change is, as the petitioner says, sudden and large, PATH appears to have acted correctly within the directive of the legislature and pursuant to its own regulation in making the change. As such, the Board is bound to affirm the decision. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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² The family also pays a premium for Dr. Dynasaur benefits for each child which is \$25 per month, up from \$20 per month previously. This change was not appealed by the petitioner.