

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 18,966  
 )  
Appeal of )  
 )

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) finding him no longer eligible for Vermont Health Access Program (VHAP) benefits. The issue is whether the petitioner's income exceeds the program maximum.

FINDINGS OF FACT

1. The petitioner does not dispute that presently he is a single person with countable income of at least \$1,200 a month from employment. Following notification that the petitioner had ceased collecting unemployment benefits and had returned to work, and upon verifying his income, the Department notified him on February 26, 2004 that he would no longer be eligible for VHAP due to excess income as of March 31, 2004.

2. The petitioner does not dispute any of the figures used by the Department. Although his income recently increased when he returned to work, he has ongoing health

problems that require costly medical services on a continuing basis, and he maintains that his income is insufficient to pay these expenses without VHAP.

ORDER

The decision of the Department is affirmed.

REASONS

Under the VHAP regulations, all earned and unearned income is included as countable income for eligibility. W.A.M. 4001.81(c). For employees, the only deduction allowed is a \$90 standard deduction. There is no dispute that the petitioner in this matter has countable income in excess of the maximum for eligibility under the VHAP program for a single individual, which is \$1,164 a month. P-2420 B (16). If an applicant has income above this amount, he cannot be found eligible for that program. W.A.M. 4001.83 and 4001.84.

At the hearing in this matter the petitioner was advised of his right to apply for General Assistance (GA) if he has an emergency medical need caused by a lack of ability to pay for a particular medical service. He was also advised to reapply for VHAP if his income should fall (even voluntarily) below the program maximum.

Unfortunately, this is yet another case in which an individual with extraordinarily high medical expenses in relation to his income is ineligible for VHAP because that program, unlike Medicaid, has no provision to assess an applicant's actual *medical* need for assistance. Although the Board has repeatedly remarked on what it feels is the patent unfairness of the lack of such a provision, inasmuch as the Department's decision is in accord with its regulation, the Board is bound to uphold the decision. 3 V.S.A. 3091(d), Fair Hearing Rule 17.

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