

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 19,278
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department for Children and Families, Economic Services Division (DCF) terminating her Vermont Health Access Program (VHAP) benefits due to excess income. The issue is whether the petitioner provided information to DCF documenting the months in which her income is actually received.

FINDINGS OF FACT

1. The petitioner is a sixty-two-year-old woman who receives \$551 per month in Social Security income and also works as a paraeducator in a school at which she now earns \$10,800 per year. The petitioner's current income came to DCF's attention during a review in August of this year.

2. Because the petitioner only works during the school year, DCF divided the annual income by ten months to achieve a \$1,080 per month earned income figure. This figure was added to her monthly Social Security Income for a total monthly income of \$1,631. DCF subtracted a \$90 earned income

deduction from that amount and concluded that the petitioner's countable income for VHAP purposes is \$1,541 per month. DCF compared that figure to the monthly maximum for a single person of \$1,164 and determined that she was ineligible.

3. DCF notified the petitioner on August 26, 2004 that her VHAP would cease as of September 30, 2004. The petitioner appealed that decision and her benefits were restored pending the outcome of this hearing.

4. The petitioner asserted at hearing that although she only works during ten months of the year, her contract pays her over a twelve-month period and that the amount she actually receives each month is \$900. The petitioner had no evidence of that payment method but was given almost a month to submit the evidence for a reconsideration.

5. When the petitioner had submitted nothing by November 18, 2004, DCF issued a new notice saying that her VHAP benefits would end November 30, 2004 for failure to provide new information to DCF.

6. As of this date, November 15, 2004, the petitioner had still not submitted verification of her payment situation.

ORDER

The decision of DCF is affirmed.

REASONS

The VHAP regulations require that income actually received or expected to be received on a monthly basis is the countable amount for purposes of determining eligibility for the program and projecting income over the certification period. VHAP 4001.81. The DCF worker handling the petitioner's application assumed that the petitioner was paid her annual income in equal installments during the months that she was working. If that assumption is correct, DCF's calculations are consistent with the regulations and the petitioner's countable income of \$1,541 is in excess of the one-person standard in the VHAP program of \$1,164 per month. P-2420B.

A showing by the petitioner that she was actually paid in a different way would have triggered a recalculation of her benefits. However, the petitioner failed to provide any verification of her contractual arrangement to receive her paychecks over a period of twelve months.¹ Given these

¹ It is possible that the petitioner abandoned her claim because she realized that even dividing her income over twelve months would result in a figure in excess of the maximum for a household of one. (\$900 in earnings plus \$551 Social Security equals \$1,451 in total income minus the \$90 disregard resulting in \$1,361 in countable income. That amount is still in excess of the \$1,164 maximum standard.)

circumstances, DCF was correct to calculate her income as it did.²

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² DCF should not have sent the petitioner a new notice closing her benefits again when she failed to provide the verification because the petitioner had the right to continue to receive benefits until her case is resolved by the Board.