STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 19,785
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals a decision of the Department for Children and Families, Economic Services Division (DCF), closing his Vermont Health Access Program (VHAP) benefits for excess income.

FINDINGS OF FACT

1. The petitioner lives with his twenty-four-year-old son. He has been receiving VHAP for some time but in June of this year was notified that his benefits would end on June 30, 2005 because of excess income.

2. The petitioner's current gross income is $1,548 per month. DCF allowed the petitioner a $90 deduction because his income is from earnings. The income counted by DCF was $1,458 per month. DCF compared that income to the allowable maximum for a family of one which is $1,280 and concluded that the petitioner's income is in excess of program maximums.

3. The petitioner argues that his twenty-four-year-old son should have been included in his household. The son has no income and is currently trying to obtain disability benefits. The petitioner says that if they were put into the same household, they could be considered eligible under the two person maximum of $1,598 per month.

4. DCF will not place them into the same household because they are both adults over twenty-one. DCF has found the petitioner's son eligible for VHAP because he has no income of his own.

ORDER

The decision of DCF is affirmed.

REASONS

The regulations governing the VHAP program define what persons are considered together in determining eligibility:

> An individual must be a member of a VHAP group with countable income under the applicable income test to meet this requirement.
> A VHAP group includes all of the following individuals if living in the same home:
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> a. the VHAP applicant and his or her spouse;
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> b. children under age 21 of the applicant or spouse;
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> c. siblings under age 21, including half siblings and stepsiblings, of b.;

> d. parents, including a stepparent and adoptive parents of c., and
>
> e. children of any children in b. and c., and
>
> f. unborn children of any of the above.
>
> The VHAP group shall not include any individual eligible for and Receiving SSI/AABD benefits. In addition, the income of all SSI/AABD recipients living in the household shall not be considered in determining whether the VHAP group passes the income test for VHAP. . . .
>
> VHAP § 4001.8

The petitioner and his son do not meet the definitions in the above statute. They are a parent and a child over twenty-one who live together. If the son is disabled, the statute contemplates that he will obtain SSI benefits and become his own household and not part of his parents' household. It is likely that the petitioner is supporting his son at this point but the state's regulations do not allow for a person to include an adult child in his VHAP group. Unless the petitioner lives with family members described in the above regulation, he will always be considered a one person household for purposes of the VHAP program. DCF's decisions to consider the petitioner a one person household and to conclude that the petitioner's income is in excess of the $1,280 maximum income for that household

size are correct under its regulations and must be upheld by the Board. 3 V.S.A. § 3091d, Fair Hearing Rule 17.

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