



work expenses and \$175 for day care expenses. The remainder, \$2,456, was counted as the family's VHAP income.

3. Based on that income, DCF determined that the petitioner and her husband still had income between 150 and 185 percent of the federal poverty level. That income placed the petitioner in the \$65 per month category based on April 2005 rules.

4. However, based on a legislative directive, DCF notified all VHAP recipients, including the petitioner, by a letter dated June 14, 2005 that the \$65 category would increase to \$75 per month on July 1, 2005. The notice also advised recipients that they could appeal the decision but had to pay all premiums as billed while the appeal was pending to continue to receive coverage. The petitioner acknowledges receiving that notification.

5. On July 1, 2005, DCF sent the petitioner a bill showing that her premium had increased to \$75 per person per month based on the legislative change and asking for payment by July 15, 2005. DCF also told the petitioner that if the payment was not made by July 15, her benefits would cease as of July 31, 2005.

5. The petitioner appealed that decision on July 7 but made no premium payment that month. Her benefits were cut

off on July 31, 2005 for non-payment of premium. The petitioner reapplied in early August and was reinstated. She paid the \$75 premium bill for that month which DCF applied toward the payment due on August 15. The petitioner says that there are no unpaid medical bills due to the small gap in coverage.

6. The petitioner appealed originally because she objected to the July 1 across the board premium increase. However her argument now is that her premium should have been reduced because she had no income from July 17 through August 3, 2005. Additionally, she is now making about \$390 per month, a little more than half of what she made in June. The petitioner did not report these changes to DCF while her appeal was pending.

ORDER

The decision of DCF is affirmed.

REASONS

DCF has regulations which require the imposition of a premium for persons in certain income categories. VHAP § 4001.91. Figures adopted by DCF on April 1, 2005 required families earning between 150 and 185 percent of the federal poverty guidelines to pay a premium of \$65 per person per

month. For a household of three, that income equaled \$2,012 to \$2,481 per month. P-2420B(3). Subsequently, DCF raised the premium amount for this category to \$75, effective July 1, 2005, based on a legislative appropriation bill, House Bill No. 516 requiring the increase.<sup>1</sup>

The petitioner acknowledges that she received the June 14, 2005 notification of increase which informed her of the change and warned her to pay the premium to continue benefits even if an appeal was filed. The Department is correct under its regulations that benefits do not continue pending appeal when the decision is a change of premium and the beneficiary fails to pay the billed premium amount. See VHAP § 4002.6. As the petitioner failed to pay any premium in July, her benefits were correctly terminated at the end of the month. VHAP § 4001.91. However, the petitioner's VHAP was reinstated in August of 2005 when she paid her premium and as she had no unpaid medical expenses during the gap, the petitioner does not have an issue with regard to the termination process affecting her July benefits. Indeed, she now makes no argument of that kind.

Neither does the petitioner argue that the legislative increase itself was either illegal or illegally implemented.

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<sup>1</sup> Premiums were raised in all categories, except the no fee category.

Rather her argument at this point is that her situation has changed since her review in June of 2005. The petitioner's income in June was \$2,456, which placed it within the range for a \$75 premium.<sup>2</sup> P-2420B(3). DCF reached this countable income by adding together both the petitioner's and her husband's earnings from income and subjecting that income to work deductions of \$90 each and a maximum \$175 child care expense as required in the regulations. VHAP §§ 4001.81(b), (e) and (f).

If the petitioner had reported her change of income in late July, her premium for August would have been adjusted to reflect that situation. The family's reduced income for that time period would have been \$2,060 reflecting her husband's income of \$2,150 minus the \$90 work disregard.<sup>3</sup> That figure would have still fallen into the \$75 premium category range. In August, when the petitioner resumed working, although at a lower rate, her family's countable income minus deductions would have been \$2,185 per month (countable incomes of \$2,150 and \$390 minus \$180 for work expenses and \$175 for child

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<sup>2</sup> The petitioner should be aware that when she works "full-time" as she did in June, her family is near the very top of the income eligibility standards for VHAP recipients with dependent children. If the family earned \$26 more in income for June, they would not have been eligible for VHAP at all.

<sup>3</sup> The petitioner's work expense deduction and child care expense deduction would have disappeared if she was not working.

care.) That amount is also within the \$75 premium category range. The petitioner should note that her husband's income is high enough alone, assuming that the petitioner cares for her child during her periods of unemployment, to trigger the \$75 per month premium category.

DCF is correct that at all times at issue, the petitioner's family income fell between 150 and 185 percent of the federal poverty level placing it in the category of \$75 per month premiums. Therefore, the decision of DCF must be upheld by the Board as consistent with its regulations. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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