

appears, however, that the Department mistakenly continued the petitioner's wife's VHAP for several months after her appeal was withdrawn.

4. On August 2, 2005 the Department, after discovering its error, sent the petitioner another notice terminating his wife's VHAP (and again finding her eligible for Healthy Vermonters), effective August 31, 2005. On August 8, 2005, the petitioner filed an appeal of this decision.

5. At the hearing held on December 8, 2005 (following several continuances at the petitioner's request) it became clear that the petitioner had withdrawn his initial appeal based on his belief that his wife's VHAP had been *permanently* "reinstated". It appears he did this based on his misunderstanding of a notice the Department had sent him following his request for hearing, which reinstated his wife's VHAP *pending his appeal*. The petitioner's confusion was only exacerbated by the Department continuing his wife's VHAP for several months following the withdrawal of his appeal. Believing that the August 2, 2005 notice of closure was inconsistent with the prior notice "reinstating" his wife's VHAP, the petitioner filed the instant appeal.

6. Once the above was explained to the petitioner at his hearing, the petitioner conceded that he did not dispute

the Department's March 2005 determinations as to his and his wife's income.

ORDER

The Department's decision is affirmed.

REASONS

There is no dispute in this matter that as of the time of his review in March 2005, and continuing through the date of the hearing, the petitioner and his wife had countable income in excess of the maximum for eligibility under the VHAP program for a two-person family, which is \$1,604 a month. P-2420 B. If applicants have income above this amount, they cannot be found eligible for that program. W.A.M. §§ 4001.83 and 4001.84.

The petitioner also does not dispute that his wife's VHAP was continued until August 31, 2005 due to the Department's error in not closing it following the withdrawal of the petitioner's initial appeal in this matter. In light of the above, the Department's August 2, 2005 decision finding the petitioner's wife ineligible for VHAP based on her March 2005 review application must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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