

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-03/17-100
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Appeal of)
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INTRODUCTION

Petitioner appeals the termination of her Medicaid eligibility by the Department for Children and Families ("Department"). The following facts are adduced from a hearing (by telephone at petitioner's request) held May 1, 2017 and documents submitted therein.

FINDINGS OF FACT

1. Petitioner is age 67, disabled, and has been covered by Medicaid through the Medicaid for Working People with Disabilities ("MWPDP") program. Petitioner also has Medicare coverage. In or around January of 2017, the Department reviewed her eligibility and determined that she is no longer eligible for Medicaid due to excess income.

2. Petitioner earns income from employment and also receives retirement income from the Social Security Administration ("SSA"). Petitioner had previously been determined eligible for Social Security Disability Insurance

("SSDI") income - however, upon reaching her full retirement age of 66, this income was converted into SSA retirement income by the SSA. While her income from the SSA remained the same, it is now categorized as retirement income as opposed to disability-based income.

3. Based on what was determined to be countable income of \$1,411 - petitioner's retirement income of \$1,431 per month minus a standard deduction of \$20 - she was found to be above the applicable income eligibility test for Medicaid of \$1,108 per month. The Department mailed petitioner a notice dated January 5, 2017 that her Medicaid would end as of January 16, 2017, and calculating that she could be eligible for Medicaid by meeting a six-month spend-down of \$4,043.64 (after subtracting her Medicare premiums). Petitioner was determined eligible - and notified of such - for the Healthy Vermonters Program.

4. Notably, the Department's decision was not based in a change in petitioner's *actual* income, but in her *countable* income, due to the conversion of her SSDI into retirement income.

5. Petitioner submitted updated information in February of 2017 regarding her gross earned income, which resulted in a new spend-down amount of \$3,132.42. Petitioner

appeared to dispute the amounts applied by the Department as to both her SSA retirement and earned income. However, these amounts are consistent with the representations and information provided by petitioner herself. The Department furthermore verified with the SSA that the retirement income is accurate, and this is the only income which had any material effect on her Medicaid eligibility through the MWPD program. To the extent there is any dispute about petitioner's income, it is found that the amounts applied by the Department are correct.¹

6. Petitioner is receiving continuing Medicaid coverage pending this appeal.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is de novo. The Department has the burden of proof at hearing if terminating or reducing existing benefits; otherwise the petitioner bears the burden. See Fair Hearing Rule 1000.3.0.4.

¹ Petitioner is free and encouraged to report any future changes in her income to the Department.

The Medicaid for Working People with Disabilities program allows for the disregard of certain income for eligible participants, which might otherwise be countable income in determining Medicaid eligibility. See Health Benefits Eligibility and Enrollment ("HBEE") Rules 8.05(d). Participants must be disabled, working, and meet an initial gross income eligibility threshold of less than 250 percent of the Federal Poverty Level ("FPL") to qualify for the income disregards. See *id.* Petitioner's initial eligibility, for application of the disregards, is not at issue here. Instead, the dispute here is whether - once determined to meet initial eligibility - her SSA retirement income is disregarded under the rules.

The rules are specific as to this question - while *SSDI* income *is* clearly disregarded (as well as work income), the rules otherwise apply the same income rules that are applied to Medicaid for the Aged, Blind and Disabled ("MABD") applicants. See HBEE § 8.05(d)(1)(B). Under MABD rules, SSA retirement income is specifically included and counted. See HBEE § 29.12(d)(3). Thus, the Department properly counted what is now petitioner's SSA retirement income, despite that it had previously been disregarded as *SSDI* income. Moreover, after subtraction of a \$20 disregard from unearned income

under MABD rules, petitioner's income of \$1,411 is over the income threshold for Medicaid for Working People with Disabilities, also known as the Protected Income Level, of \$1,108 for a household of one in Chittenden County. See Medicaid Procedures P-2420B (Bulletin 16-36, eff. 1/1/17).²

As such, the Department's determination is consistent with the rules and must be affirmed by the Board. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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² As noted above, petitioner may potentially "spend-down" to Medicaid eligibility, depending on her out-of-pocket medical expenses. Calculation of the spend-down is based on counting petitioner's unearned and earned income - unlike the MWPD program, her earned income is counted for purposes of the Medicaid spend-down.