

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. R-06/17-307
)
Appeal of)
)

INTRODUCTION

Petitioner appeals the termination of her VPharm eligibility by the Department of Vermont Health Access ("Department"). The following facts are adduced from a hearing held August 31, 2017 and documents submitted by the Department.

FINDINGS OF FACT

1. Petitioner is widowed and a household of one for the purposes of VPharm eligibility. Her monthly income is comprised of \$1,849 in Social Security retirement income and \$500 from an annuity (established by her late spouse).

2. Petitioner submitted a review application for a determination of her continued eligibility on April 28, 2017. Based on this application, the Department determined that she is ineligible for VPharm based on being above the highest

income threshold for that program.¹ The Department mailed her a notice dated May 3, 2017, that her VPharm would close as of May 31, 2017.

3. Petitioner indicates she inquired about restructuring her annuity (with the fund manager), but has been informed that is not possible. She has absorbed significant out-of-pocket medication costs since losing VPharm eligibility, in addition to the monthly premium she pays for Medicare Part D coverage.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is de novo. As this concerns a termination of eligibility, the Department has the burden of proving, by a preponderance of evidence, the appropriateness of its determination under the applicable rules. See Fair Hearing Rule 1000.3.0(4).

VPharm is a program established by the Vermont Legislature to provide prescription drug coverage to eligible applicants based on income. See VPharm Rules § 5400. There

¹ While immaterial to this appeal, it appears that petitioner's annuity income was not known to the Department with respect to prior determinations of her eligibility.

are three levels of eligibility: up to or equal to 150 percent of the Federal Poverty Level ("FPL"); above 150 percent of the FPL, up to or equal to 175 percent of the FPL; and above 175 percent of the FPL, up to or equal to 225 percent of the FPL. See VPharm Rules § 5441.

Determination of income under the VPharm program is directed by certain rules formerly related to the Vermont Health Access Program ("VHAP").² Under these rules, countable unearned income includes pensions, annuities, and Social Security-based retirement income. See VHAP Rules § 5321(B). There are no recognized deductions from unearned income. See *id.*

There is no dispute regarding petitioner's countable monthly income of \$2,349 under VPharm rules. The Department therefore correctly determined that Petitioner's income exceeds the highest applicable threshold for eligibility, \$2,262.00 per month. See Medicaid Procedures P-2420B(B) (2) (Bulletin B17-14, eff. 1/1/17).

² With the advent of Vermont's health exchange, the VHAP program is no longer in existence; however, VHAP Rules 5321 through 5323 were not repealed, undoubtedly because they govern this calculation of income.

As such, the Department's decision is consistent with the rules and must be affirmed. See 33 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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