

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. A-10/17-550  
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Appeal of )  
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INTRODUCTION

The petitioner appeals the termination of her husband's eligibility under Medicaid for the Medicare Savings Program (MSP) by the Department of Vermont Health Access. The issue is whether the petitioner's and her husband's combined income exceeds the program maximum. The following facts are based on the representations of the parties at a telephone hearing held on November 17, 2017, and on the documents submitted by the Department pursuant to that hearing.

FINDINGS OF FACT

1. The petitioner and her husband underwent a review of their health benefits in September 2017. Prior to that review the petitioner's husband, who is a Medicare beneficiary and a recipient of Social Security Disability Insurance (SSDI), also received benefits under Vermont Medicaid's Medicare Savings Program (MSP), which consisted of payment by Medicaid of his monthly Medicare Part B premiums.

His prior eligibility for MSP had been based on his SSDI income combined with the petitioner's income, which at that time was earnings from her employment.

2. On their September 2017 application, the petitioner reported that she was no longer working, that she now also receives SSDI, in an amount of \$960 per month, and that her husband's SSDI is \$961 a month--for a combined unearned income amount of \$1,921.

3. The Department compared the petitioner's and her husband's combined countable income (after applying a \$20 standard disregard) of \$1,901 to the Medicaid income limit of \$1,025 and to the highest MSP income threshold of \$1,827 for a household of two (see *infra*). Based on this information, the Department issued a decision dated September 29, 2017 (effective October 12, 2017) terminating the petitioner's husband's Medicaid/MSP eligibility and finding them both ineligible for Medicaid.<sup>1</sup>

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<sup>1</sup> The Department's notice included a decision that the petitioner and her husband could become eligible for Medicaid once they incur a six-month "spenddown" amount of \$5,256. The petitioner's husband's Medicare premiums (\$121.80 each X 6 mos.) were then applied to this figure, yielding a spenddown of \$4,525.20. At the hearing the petitioner was advised that any other uncovered medical expenses she and her husband incur in that six-month period can also be applied to the spenddown.

4. At the hearing, the petitioner did not dispute any of the income information used by the Department in making its decision. The Department explained that the loss of her husband's Medicaid/MSP benefits following this review was due to the fact that, unlike the considerable deductions that had previously been allowed when the petitioner had earned income, her current SSDI benefit (unearned income) is counted in full.

5. Unlike her husband, the petitioner does not receive Medicare. The Department has advised her that this makes her eligible to purchase a Qualified Health Plan (QHP) with premium subsidies, but that she should apply for coverage immediately to avoid or minimize any gap in her own insurance coverage.<sup>2</sup>

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

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<sup>2</sup> The petitioner's premium payments for a QHP would also apply toward her and her husband's spenddown for Medicaid.

petitioner bears the burden. See Fair Hearing Rule 1000.3.O.4.

Medicaid MSP benefits pay Medicare Part B premiums and/or cost-sharing obligations of those eligible, depending on their income. See Health Benefits Eligibility and Enrollment ("HBEE") Rules § 8.07(b). There are three potential levels of assistance based on, respectively, income at or below 100 percent of the Federal Poverty Level ("FPL"), income between 100 percent and 120 percent of the FPL, and income at or above 120 percent but less than 135 percent of the FPL. See *id.*<sup>3</sup> The program applies the income guidelines for the Medicaid Aged, Blind and Disabled program, which clearly count unearned Social Security income of the type that the petitioner and his wife presently receive (minus only a \$20 disregard). See HBEE Rules §§ 29.12 and 29.13.

While there is no question that the petitioner's husband is still *categorically* eligible for a Medicaid/MSP benefit, their combined countable income of \$1,901 is now above the highest possible threshold for the program (135 percent FPL), which currently is \$1,827 per month for a household of two.

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<sup>3</sup> These three levels of assistance and eligibility groups are designated, respectively, as Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Qualified Individuals (QI-1).

Medicaid Procedures Manual § P-2420(B). The applicable rules for both programs (Social Security and Medicaid) are based on provisions of federal law. Inasmuch as the Department's decision appears to be fully consistent with the applicable rules, the Board is bound to affirm. 3 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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