

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. R-12/21-730
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Appeal of)
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INTRODUCTION

Petitioner appeals the amount of her 3SquaresVT benefits, by decision of the Vermont Department for Children and Families ("Department"). The following facts are adduced from a telephone hearing held on February 7, 2022, and documents submitted by the Department.¹

FINDINGS OF FACT

1. Petitioner applied for 3SquaresVT on November 10, 2021. Petitioner receives Social Security Disability Insurance ("SSDI") income and also earns employment income from a part-time job. There is no dispute about petitioner's gross earned income of \$966.94 and \$1,166 in SSDI, per month, at the time of her application (petitioner has since received a cost-of-living increase to her SSDI in 2022 and also updated her income, which fluctuates over time).

¹ It is noted that petitioner did not appear for her initial hearing on January 14, 2022, because she was at work at the time; the Department did not object to rescheduling.

2. Petitioner also indicated on her application that she was enrolled in Medicare and paid a monthly premium of \$120. Petitioner did not list any additional medical expenses. As far as other relevant expenses, there is no dispute about petitioner's monthly housing costs (comprised of her lot rent, mortgage, property taxes, and insurance) of \$714.04, at the time of her application.

3. The Department issued a decision based on petitioner's November 10th application on November 23, 2021. Department's decision accurately calculated petitioner's income, earned income deduction, shelter-utility deduction, and personal deduction, which amounted to \$1,054.79 in countable 3SquaresVT income per month, with a resulting benefit amount of \$20 per month. Petitioner does not dispute the above calculations.

4. However, on appeal petitioner disputes the following with respect to the Department's treatment of her medical deductions: (1) the Department's failure to allow her a deduction for her Medicare premium; and (2) the Department's insistence that petitioner provide verification of other medical expenses, such as co-pays, over-the-counter treatments, mileage to medical appointments, etc.

5. At hearing, testimony from a Department worker established that the Department's records - apparently in error - showed that petitioner's Medicare premium was being paid through the Medicare Savings Program ("MSP"). At hearing, petitioner agreed to submit proof that her Medicare premium was deducted from her SSDI as well as additional verification of any other medical expenses (including mileage) that she wished to claim. This information was provided to the Department by petitioner following the hearing.

6. The Department subsequently contacted the Board on February 11, 2022, indicating that petitioner's medical expenses had been recognized (as well as a change in income), and a new notice of decision had been issued on February 9, 2022, which increased petitioner's 3SquaresVT benefits to \$42 per month. Of note, the Department gave retroactive effect to petitioner's medical deduction. It is further recognized that petitioner reported the deduction of her Medicare premium on her November 2021 application,² and the Department's understanding that petitioner was receiving the

² Petitioner slightly under-reported the amount of her premium cost, but this would not have affected the amount of the medical deduction at the time of her application, which is standardized at \$116 per month for incurred costs between \$35 and \$151 per month.

MSP benefit was clearly in good faith but incorrect (the MSP benefit is administered by another department within the Agency of Human Services, the Department of Vermont Health Access).

7. The Department reported at hearing that, due to the Covid-19 public health emergency, the Department is currently providing a maximum benefit to all households eligible for a benefit at any level. It is not known when this provision of additional 3SquaresVT benefits will end; thus, petitioner's appeal remains a relevant and live dispute.

ORDER

The Department's decision, with retroactive effect given to petitioner's medical deduction, 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.

The 3SquaresVT program is designed "to help low-income persons and families stretch their food budget to put three healthy meals on the table every day." See 3SquaresVT

Program Manual ("Manual"), Purpose. To meet this purpose and calculate benefit levels, the Department makes a determination of countable income and deductions under the rules. See Manual, Income and Determining Income and Deductions.

In determining eligibility, the Department first calculates gross household income, including all earned and unearned income. See Manual § 1500.1, Determination of Household Income. The Department correctly determined petitioner's gross monthly income at the time of her application as \$2,132.94 per month. The Department furthermore properly calculated the earned income deduction of \$193.39, see Manual, § 1600.4 (20 percent of gross earned income), as well as the standard deduction of \$177 for a household of one (1). See Manual, § 1600.7.

Petitioner's housing costs at the time of her application amounted to \$714.04 per month. The shelter deduction is calculated by adding the monthly cost for housing to a standard utility deduction (in petitioner's case, \$875 per month), then subtracting that total from 50 percent of the household's income after other deductions. See Manual § 1600.6 [Deductions - Shelter Expenses] and § 2400.7.1 [Net Income Calculation] ("total allowed shelter

expenses, then subtract 50 percent of the remaining (adjusted) income to arrive at a net shelter amount."). Here, 50 percent of the household's adjusted income (\$1,762.55 divided by 2, or \$881.28) subtracted from petitioner's total countable shelter expenses (\$714.04 + \$875 = \$1,589.04) equals \$707.76. This is identical to the Department's deduction of \$707.76.

While the Department appropriately requested that petitioner verify her out-of-pocket medical costs such as co-pays and mileage, see Manual at § 400.1 [Verification], petitioner correctly reported that her Medicare premium was deducted from her SSDI and the Department denied this deduction based on information that was apparently outdated (from a benefit program also administered by the Agency of Human Services, albeit by a different Department). The Department has now included this deduction in petitioner's 3SquaresVT calculation and has appropriately given petitioner's medical deduction retroactive effect. The deduction recognized in the February 9, 2022, decision exceeds the standard deduction of \$116 which petitioner would have received if the Department had recognized her Medicare premium payment at the time. The calculations made by the Department based on petitioner's November 10, 2021,

application are otherwise accurate and consistent with the rules.³ Petitioner remains free to appeal the February 9, 2022, decision if she wishes, as that decision relies on other updated information for petitioner's income and costs which are not part of this appeal.

As such, the Department's November 23, 2021, decision, coupled with the retroactive effect given to petitioner's medical deduction, must be affirmed as consistent with the applicable rules. See 33 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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³ It is noted that the addition of petitioner's medical deduction would change the amount of countable income utilized to calculate her shelter-utility deduction. This new calculation is included in the February 9, 2022, notice of decision which remains appealable by petitioner.