

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. A-10/10-455  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, terminating Vermont Health Access Plan (VHAP) benefits based on a finding that petitioner is over income for VHAP, and finding petitioner eligible for coverage under the Catamount Health Premium Assistance Plan (CHAP).

The petitioner is undergoing cancer treatment and is concerned that the insurers operating under CHAP will not cover continuing treatment for a pre-existing condition.

The issue is whether the Department properly determined that petitioner no longer met the income eligibility limits for VHAP. The material facts are not in dispute. The following decision is based on evidence adduced at hearing and subsequent telephone status conferences.

FINDINGS OF FACT

1. The petitioner and his wife constitute a two-person household. They were found eligible for VHAP on or about March 23, 2010.

2. The petitioner has pancreatic cancer. Petitioner completed one course of chemotherapy with good results. His doctors recommend a second course of treatment and he is concerned that this treatment will not be covered under CHAP because the cancer is a pre-existing condition.

3. Petitioner was found eligible for Social Security Disability benefits effective August 2010.<sup>1</sup> He receives \$1,644 per month.

4. The petitioner's wife is unemployed. She receives unemployment compensation benefits. She has been on extended benefits and there have been gaps in her payments. For the period in question, her benefit is \$363 per week or \$1,560.90 per month.

5. On or about August 25, 2010, the Department was informed that petitioner's Social Security Benefits were starting.

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<sup>1</sup>The Social Security Administration regulations include a five-month waiting period before benefits are paid. For petitioner, his first payment was for the month of August 2010 and he was paid during September 2010.

6. On or about August 25, 2010, the Department sent the petitioner a Notice of Decision that his VHAP coverage would end September 30, 2010 because he was over income for the program.

7. The petitioner has combined monthly household income of Social Security Disability (\$1,644) and unemployment compensation (\$1,560.90) totaling \$3,204.90. His monthly household income is more than the monthly VHAP maximum for a two-person household of \$1,829.

8. On or about August 25, 2010, the Department issued the petitioner a Notice of Decision that his VHAP would stay in place while the Department determined his household's eligibility for premium assistance under CHAP.

9. On or about August 26, 2010, the Department issued the petitioner a Sign Up Authorization for CHAP in which petitioner was given a deadline of September 25, 2010 to choose a CHAP plan. Subsequent Notice informed petitioner that CHAP would begin October 1, 2010.

10. Petitioner asked for a fair hearing on September 30, 2010. Petitioner is receiving continuing VHAP benefits pending decision of his appeal.

ORDER

The Department's decision is affirmed.

REASONS

Vermont offers two primary health programs that extend medical insurance coverage to uninsured adults who are not eligible for the Medicaid program.

The first program is the Vermont Health Access Program (VHAP). The Department for Vermont Health Access administers the VHAP program through promulgated regulations setting the scope of services and treatment.

Households without minor children can qualify for VHAP if their countable income is equal to or less than 150 percent of the Federal Poverty Level (FPL). W.A.M. §§ 5310 and 5324. The maximum countable monthly income for a household of two without minor children to qualify for VHAP is \$1,829. P-2420B.

The second program is the Premium Assistance program that extends medical coverage to those households who are not eligible for VHAP and whose countable income is equal to or less than 300 percent of the FPL. W.A.M. §§ 5910 and 5913. The maximum countable monthly income for a household of two to qualify for CHAP is \$3,658. P-2420B.

The Catamount Health Premium Assistance Program (CHAP) is a program offered under the Premium Assistance program for those who do not have access to employer-sponsored insurance. Under CHAP, Vermont subsidizes the cost of a policy for Catamount Health insurance from designated private health insurance companies. The private insurers set the terms of coverage consistent with regulations promulgated by the Department of Banking, Insurance, Securities, and Healthcare Administration.<sup>2</sup>

Petitioner's household income exceeds the maximum income limits for the VHAP program, but his household income falls within the maximum income limits for the CHAP program. If his household's income decreases, he can ask the Department to determine whether he meets the VHAP guidelines.

Based on the regulations and foregoing facts, the Department's decision to terminate VHAP and switch

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<sup>2</sup>The petitioner's concerns may be met under the provisions of 8 V.S.A. §4080f(e) (1), which provides that a Catamount insurer waive pre-existing condition exclusions when there is evidence of continuous creditable coverage for the previous nine months. The regulations are found at Vermont Department of Banking, Insurance, Securities, and Healthcare Administration Rule H-2006-01 § 3(i) (eff. Sept. 8, 2006). Nine months of continuous VHAP coverage should qualify for continuous creditable coverage. The petitioner can seek assistance through the Vermont Healthcare Ombudsman to determine the applicability of these provisions.

petitioner's household to CHAP is affirmed. 3 V.S.A. §  
3091(d), Fair Hearing Rule No. 1000.4D.

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