

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-02/10-69
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, to terminate Medicaid coverage for petitioner and his spouse. The issue is whether the Department correctly applied the regulations in this case. The decision is based on the record below. The material facts are not in dispute.

FINDINGS OF FACT

1. The petitioner lives with his wife and his grandson. The petitioner receives a military pension and Social Security income. Petitioner's wife is disabled and receives disability income through a long-term care policy.

2. Petitioner and his wife have raised and cared for their grandson for the past four years. Their grandson came into their care due to an arrangement accepted by the Family Court as part of the parent's divorce action that the child would live with his grandparents.

3. The grandson is now over eighteen years old and is enrolled in college.

4. Petitioner, his wife, and grandson received Medicaid, as a Medicaid household in which there were caretaker relatives and a minor child.

5. On or about January 11, 2010, the Department sent the petitioner a Notice of Decision that his grandson was no longer eligible to part of their household because he was no longer a minor child.

6. The Department then looked at whether the petitioner and his wife were eligible for health coverage through the Department. On or about January 12, 2010, the Department issued a Notice of Decision that petitioner and his wife were not eligible for either VHAP or CHAP because they had other health insurance coverage and that they were over income for Medicaid because their monthly income exceeded the maximum income level of \$991 for a household of two. Petitioner was given a spend-down for Medicaid eligibility.

7. Petitioner filed an appeal on or about January 16, 2010 and has received continuing Medicaid benefits. A status conference was held on March 11, 2010.

ORDER

The Department's decision is affirmed.

REASONS

Petitioner received Medicaid under the Families and Children provisions or ANFC-related Medicaid provisions in which parents or caretaker relatives of a dependent child are categorically eligible for Medicaid. W.A.M. § 4300.

Caretaker relatives are "categorically eligible for Medicaid if they live with a child who is under eighteen or age eighteen and enrolled in a secondary school or an equivalent level of vocational or technical training and expected to complete high school or the equivalent program before reaching his or her nineteenth birthday". W.A.M. § 4343.

The rationale is that parents or caretaker relatives have a legal responsibility to minor children in their care. This legal responsibility ordinarily ends when the child reaches the age of majority or eighteen years of age.¹

Under the regulations, the Department was correct when they found that the petitioner was no longer entitled to

¹For example, child custody and child support provisions ordinarily end when the child reaches eighteen years of age.

Medicaid as a caretaker relative. The Department was correct in considering the grandson as a separate household of one.

The Department then looked at whether the petitioner and his wife were eligible for any of the other medical programs the Department provides. Because the petitioner and his wife have other health insurance, they do not qualify for either VHAP or CHAP. W.A.M. §§ 5312 and 5913.

Medicaid also covers the elderly and disabled who meet the eligibility criteria for SSI-related Medicaid at W.A.M. §§ 4200 *et seq.* Spouses can qualify as a household of two. There are no provisions for caretaker relatives in SSI-related Medicaid.

To qualify, the applicants must have income that does not exceed the PIL. In petitioner's case, the PIL is \$991 per month. His household's countable income is \$1,193.44 per month, meaning that they do not meet the income limits.

However, the regulations include a provision for the medically needy by allowing them to qualify for Medicaid after meeting the terms of a spend-down. W.A.M. § 4203. The Department has correctly determined the spend-down for petitioner's household.

The Department has correctly determined eligibility under the regulations. The Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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