

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-02/10-96  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Economic Services Division, Health Access Eligibility Unit closing his Medicaid and finding him ineligible for health care benefits other than the Healthy Vermonters Program. The issue is whether the petitioner failed to timely comply with the verification and application requirements of the programs, and whether the petitioner's income is in excess of the programs' maximums. The following facts are not in dispute, and are based on the representations of the parties at and on documents submitted subsequent to a telephone status conference held on April 15, 2010.

FINDINGS OF FACT

1. On January 9, 2010 the Department sent the petitioner, who was receiving SSI and Medicaid at that time, a notice advising him of the following:

Your family's health care coverage is due for review. Please complete, sign and return the enclosed form if you wish to have your coverage continue. . .

Please return your completed forms by February 1, 2010 so that we have enough time to process your review before February 15, 2010. If a review is not completed, your health care coverage will end.

2. Having not heard from the petitioner, the Department sent him a **Second Reminder Notice** on February 2, 2010 that included the following:

Without your review form, we cannot find out if you are still eligible for health care coverage. If you do not return your review form by February 15, 2010, we cannot complete a review and health care coverage will end on February 28, 2010. . .

3. On February 17, 2010, having still not heard from the petitioner, the Department sent him a **Health Care Closure Notice** advising him that his "health care eligibility will end on February 28, 2010".

4. The petitioner requested a fair hearing regarding this decision on February 25, 2010, and his Medicaid coverage has continued pending the appeal.

5. On March 3, 2010, the Department received an application for health care benefits for the petitioner. Two other applications were received on March 10 and April 5, 2010. Those applications indicated that the petitioner was married and was no longer receiving SSI due to his wife's income.

6. The petitioner has not indicated that he disputes the Department's determination of his family's income and the portion of that income that is attributable to him under the regulations (\$1,883.25). Nor does he dispute that this amount of income is in excess of the maximums allowable under all the Department's programs except Healthy Vermonters. Before he can be eligible for Medicaid the petitioner has been given a spenddown of \$4,491.90 for the six-month period beginning March 1, 2010.

ORDER

The Department's decision is affirmed.

REASONS

As noted above, the petitioner does not dispute that the Department clearly and timely notified him of all his filing deadlines and of the consequences if he did not comply. Even if he did comply, however, there is no dispute that the Department as of March 1, 2010 correctly determined both the sources and amounts of the petitioner's household income. Under Medicaid rules, the earned and unearned income of all related household members is considered in determining financial eligibility. W.A.M. § 4221. Unfortunately, although it can be viewed as a financial disincentive for

married cohabitation, the regulations are clear that Medicaid households must include spouses who live together, and that part of the income of one spouse must be deemed available to the other, even if one or both spouses have high medical expenses. W.A.M. §§ 4281 *et seq.*

Inasmuch as the Department's decision in this matter is in accord with the pertinent regulations, the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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