

In re) Fair Hearing No. A-01/11-44
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 Appeal of)

The petitioner appeals a decision by the Department for Children and Families, Health Access Eligibility Unit, terminating Medicaid based on petitioner's income and assigning a spend down for petitioner to meet before he can qualify for Medicaid. The issue is whether the Department has properly calculated petitioner's income pursuant to the Medicaid regulations.

FINDINGS OF FACT

1. The petitioner is retired and constitutes a one-person household for Medicaid.
2. The petitioner submitted a review application for health care benefits on or about December 16, 2010. Petitioner notified the Department that his total monthly income was \$1,334.00.
3. Petitioner receives the following monthly income:

Social Security Retirement	\$486.00
Canadian Pension ¹	\$510.00
Canadian Supplement	\$338.00

Petitioner also has a small business buying and selling collectibles. His 2010 Federal Income Tax return shows his business operating at a loss.

4. The Department issued a Notice of Decision on or about January 14, 2011 notifying petitioner that his Medicaid would end effective January 31, 2011 and that his State supplement under the Medicare Savings Program would end January 31, 2011 because his income was greater than the Medicaid limits. The Department informed petitioner that he could qualify for Medicaid within the six-month certification period (February 1 through July 31, 2011) if he meets his spend down of \$1,173.96.

5. Petitioner asked for a fair hearing on or about January 18, 2011. Petitioner receives continuing Medicaid benefits.

6. The Department calculated petitioner's spend down as follows:

¹ The Canadian pension and supplement vary depending on the exchange rate.

Calculation of countable income

Gross unearned income	\$1,334.00
Minus disregard	<u>- 20.00</u>
Countable income	\$1,314.00

Determination of spend down

Net income	\$1,314.00
Minus PIL	<u>- 925.00</u>
Excess Income	\$ 389.00

(For six-month period)	
Excess income	\$2,334.00
Minus Part B premiums	- 692.00
Minus OTC expenses ²	<u>- 467.64</u>
Spend down	\$1,173.96

ORDER

The Department's decision is affirmed.

REASONS

The Medicaid program is a cooperative federal/state program designed to provide medical assistance to low-income families, seniors, and the disabled. 42 U.S.C. § 1396. To qualify for Medicaid, the individual must meet both the income test and the resource test for a household his size. W.A.M. § 4200. The maximum countable income (PIL or protected income level) for a household of one outside Chittenden County is \$925.00 per month. Procedures P-2420B.

² The OTC expenses are based on information petitioner supplied to the Department.

The Department must count all earned and unearned income received by a household. W.A.M. § 4270. The Department correctly characterized petitioner's Social Security retirement benefits and petitioner's Canadian pension and supplement as unearned income. W.A.M. § 4273. Allowable deductions for a household of one are set out in W.A.M. § 4281.1. A \$20.00 disregard is applied in all cases. The Department correctly determined that petitioner's countable monthly income is \$1,314.00. Petitioner's income is above the Medicaid limits for a one-person household of \$925.00 per month.

When an individual is denied Medicaid because of excess income, the individual is given a spend down by the Department. W.A.M. § 4270. Once the individual incurs costs equal to his or her spend down, the individual will be eligible for Medicaid.

To determine an individual's spend down, the Department deducts certain expenses from the individual's countable income. These expenses include (1) health insurance such as the Medicare Part B premium (W.A.M. § 4451) or (2) non-covered medical expenses such as over the counter medications

and supplies or dental services over the allowable annual maximum (W.A.M. § 4452).³

The Department deducted the cost of petitioner's Part B premium. In doing so, they captured the net amount petitioner now receives from the Social Security Administration. The Department also deducted the cost of over the counter medications and services based upon information from petitioner. The Department correctly determined petitioner's spend down for Medicaid eligibility.

Once petitioner meets his spend down, he will again be eligible for Medicaid.

As the Department correctly terminated petitioner from Medicaid and instituted a spend down, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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³ W.A.M. §§ 4453 and 4454 allow other expenses that are not pertinent to this case.