

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. A-07/11-436
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, changing her health insurance plan from the Vermont Health Assistance Plan (VHAP) to the Catamount Health Assistance Plan (CHAP) due to a change in her household's income.¹ Petitioner objects to the Department's inclusion of her children's Social Security survivor benefits as part of her household income. The issue is whether the Department correctly determined petitioner's eligibility pursuant to the regulations.

The petitioner requested a fair hearing on July 18, 2011. Petitioner receives continuing VHAP benefits pending

¹Petitioner's food stamps were closed due to excess income. Petitioner is not objecting to the loss of food stamps.

resolution of the fair hearing.² A fair hearing was held on August 10, 2011. The material facts are not in dispute. The decision is based on the evidence adduced at hearing.

FINDINGS OF FACT

1. The petitioner and her two minor children are going through a difficult period dealing with the recent loss of her husband and their father.

2. When petitioner submitted an online application during early April 2011 for health care and food stamps, she noted that her husband had been diagnosed with stage four colon cancer. Petitioner's husband last day of work was March 21, 2011, but the employer kept him on as an employee.

3. Petitioner's husband died on April 29, 2011.

4. An employee of the home health agency timely notified the Department on the petitioner's behalf that petitioner's husband had died.

5. The petitioner is employed full-time. Her gross monthly wages are \$2,322.00. In her application, petitioner

² Petitioner received conflicting information from the Department whether her VHAP benefits were continued and conflicting information about the amount of the premium. The Department's attorney represented at hearing that the VHAP benefits would continue pending hearing at the lower premium amount.

stated she pays \$75.00 per week for childcare for her children.

6. Petitioner's children receive survivor's benefits from the Social Security Administration based on their late father's account. Each child receives \$1,148.00 per month for a total of \$2,296.00 per month. Petitioner explained that she was informed by the Social Security Administration that these funds are for her children's benefit. The children receive health care coverage through the Dr. Dynasaur program.

7. The Department sent petitioner a flurry of Notices of Decision involving VHAP, then CHAP, and the food stamp program as they processed the change in petitioner's status from a household of four to a household of three. The petitioner found the process confusing and found her telephone communications with the Department difficult.

8. The pertinent Notices of Decision regarding petitioner's medical coverage are:

- a. Notice issued May 6, 2011. Petitioner informed that she is eligible for VHAP.
- b. Notice issued May 17, 2011. Petitioner informed that she was enrolled in VHAP on May 6, 2011, but that the Department wants to explore whether she should be enrolled in the VHAP-ESIA program (employer sponsored insurance).

c. May 17, 2011. The Department sends petitioner the PIRL (plan information request) for petitioner's employer to complete and return to the Department.

d. May 27, 2011. Department informs petitioner that her employer's insurance is not considered available insurance and that her VHAP will continue.

e. Notice issued July 13, 2011. Petitioner informed that her income is too high for VHAP and that her VHAP will close July 31, 2011. Petitioner informed that she is eligible for CHAP and that VHAP will continue until the Department determines eligibility for premium assistance.

f. Notice issued July 14, 2011. Petitioner informed that she should sign up for CHAP either through MVP Catamount Choice (monthly premium range of \$119-267) or Catamount Blue (monthly premium range of \$60-208).

9. The Department included the children's Social Security benefits as part of petitioner's household income in determining petitioner's eligibility for VHAP and CHAP.

ORDER

The Department's decision is affirmed.

REASONS

The Vermont Legislature enacted Act 14 during 1995 to extend health care coverage to uninsured low-income Vermonters who are not eligible for Medicaid benefits. W.A.M. § 5300. Act 14 established the VHAP program. The maximum income limit for an adult with minor child(ren) is 185 percent of the Federal Poverty Level (FPL) based on

household size or \$2,876.00 for a household of three. W.A.M. § 5324, Procedures P-2420B.

The Vermont Legislature further expanded health care coverage in 2006 by adopting Act 191. Act 191 expanded health care coverage to eligible adult Vermonters whose countable income is no more than 300 percent of the FPL or \$4,663.00 per month for a household of three. W.A.M. §§ 5900 and 5913, P-2420B. The Department incorporated W.A.M. § 5320 into the income calculations for CHAP. W.A.M. § 5916.

The Department looks at all the earned and unearned income less any allowable deductions in determining financial eligibility. W.A.M. §§ 5320 and 5321. Financial need is based on the countable income of the VHAP group or household.

W.A.M. § 5320 states, in part:

An individual must be a member of a VHAP group with countable income under the applicable income test to meet this requirement.

A VHAP group includes all of the following individuals if living in the same home:

- A. the VHAP applicant and his or her spouse;
- B. children under age 21 of the applicant or spouse;

The regulations indicate that the Department first establishes who is in the household and then looks at the countable income of all household members. Fair Hearing Nos.

21,073 and B-02/11-73. Under the regulations, the petitioner is in a three-person household.

All income is counted unless the income is specifically excluded under W.A.M. § 5322. Survivor benefits payable through Title IV of the Social Security Act are not part of the income exclusions.

Countable income is determined after applying applicable deductions. W.A.M. § 5321D allows a \$90 standard employment expense deduction. W.A.M. § 5321E allows a dependent care deduction up to a maximum of \$175.00 per month for a child between the ages of two to thirteen years old; the expense is allowed as paid up to the maximum amount.

Looking at the monthly income of petitioner's household, petitioner has earnings of \$2,322.00 and her children receive \$2,296.00 for a total monthly income of \$4,618.00. Applying the standard employment deduction of \$90.00 and the dependent care deduction of \$175.00 per child, petitioner's countable household income is \$4,178.00 per month. This amount is greater than the VHAP eligibility limit but falls within the CHAP program.

The Department has correctly followed the regulations. Accordingly, the Department's decision to find petitioner over-income for VHAP and to find petitioner within the

eligibility guidelines for CHAP is affirmed. 3 V.S.A. §
3091(d), Fair Hearing Rule No. 1000.4D.

#