

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-02/11-73  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Health Access Eligibility Unit (HAEU), denying her application for health care coverage through either the Vermont Health Access Program (VHAP) or the Catamount Health Premium Assistance Program (CHAP).<sup>1</sup> The issue is whether the Department correctly determined the petitioner's eligibility under the regulations.

The material facts are not in dispute. The decision is based on the evidence adduced at hearing.

FINDINGS OF FACT

1. The petitioner is the parent of a minor child, S.T. Petitioner and S.T. live in the same household as S.T.'s father, T.T. Petitioner and T.T. are not married.

2. Petitioner applied for health care coverage for herself. At the time petitioner applied, petitioner was

---

<sup>1</sup>Petitioner also appealed the denial of Dr. Dynasaur coverage for her minor child, S.T. S.T. is now covered under her father's health insurance policy. This issue is moot and is no longer under consideration.

employed and earned \$439.89/week or \$1,891.53/month gross income.<sup>2</sup> Petitioner also applied for health care coverage for S.T.

3. On January 18, 2011, the Department issued a Verification Request asking petitioner for T.T.'s income for the past thirty days noting that they look at household income in determining eligibility.

4. Petitioner supplied T.T.'s income to the Department. At hearing, petitioner testified that T.T. earned \$55,000.00/year (\$4,583.33/month).

5. On January 27, 2011, the Department issued two Notices of Decision informing petitioner that she was not eligible for either VHAP or CHAP because her income was too high. Petitioner was found eligible for Healthy Vermonters.

6. Petitioner requested a fair hearing on February 1, 2011. A fair hearing was held on March 10, 2011.

7. Petitioner testified that T.T. does not contribute to her support. She disputes the Department including T.T.'s income when determining her eligibility.

ORDER

---

<sup>2</sup>At hearing, petitioner was no longer employed and advised that she can reapply for assistance.

The Department's decision to deny petitioner for either VHAP or CHAP 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. W.A.M. § 5324.

The Department looks at all the earned and unearned income less any allowable deductions<sup>3</sup> 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:

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:

---

<sup>3</sup>Wage earners are given a \$90 standard employment deduction.

- A. the VHAP applicant and his or her spouse;
- B. children under age 21 of the applicant or spouse;
- C. siblings under age 21, including halfsiblings and stepsiblings, of B.;
- D. parents, including a stepparent and adoptive parents of C.; and
- E. children of any children in B. and C., and
- F. unborn children of any of the above.

The Vermont Legislature 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. W.A.M. §§ 5900 and 5913. The Department incorporated W.A.M. § 5320 into the income calculations for CHAP. W.A.M. § 5916.

The crux of this case is the definition of household as defined under the VHAP and CHAP programs. The regulation looks to the composition of the family unit to determine household. Fair Hearing No. 21,073.

The Board faced a similar case in Fair Hearing No. B-07/09-366. The petitioner and S.G. were divorced parents; the petitioner had sole responsibility for their son. Due to economics, the petitioner and S.G. continued to live in the same home. The Board affirmed the Department's decision to

include S.G. as part of the household finding on pages 3-4 that:

Although petitioner is divorced, the operative criteria are that petitioner and S.G. are parents of children in the household and both parents reside in the household. Based on the regulation above [W.A.M. § 5320], the Department is correct in including S.G. as part of the household and considering her income in the household's countable income.

The same analysis applies here. The Department was correct to include T.T. as part of the household and include his income in their determinations.

The petitioner is part of a three-person household. The maximum monthly income limit for a three-person household is \$2,876.00 for VHAP and \$4,663.00 for CHAP. Including T.T.'s income pushes petitioner above the income guidelines. Petitioner can reapply if there is a change in her household composition or the household's income becomes less.

Based on the foregoing, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule 1000.4D.

# # #