

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. A-04/15-447
)
Appeal of)

INTRODUCTION

Petitioner appeals decisions by the Department for Children and Families, Economic Services Division ("Department") denying his eligibility for Medicaid, determining the amount of the spend-down for him to attain Medicaid eligibility, and denying his eligibility for Medicare Buy-In benefits.

The following facts regarding petitioner's income and the Department's calculations are adduced from testimony and representations of the parties during telephone hearings on May 11, May 19 and June 5, 2015, and correspondence and records submitted by the Department.

FINDINGS OF FACT

1. Petitioner applied for Medicaid and reported a gross monthly income of \$1,410.90 from Social Security Disability Insurance ("SSDI"). He also receives Medicare and coverage for prescription medications through VPharm-1.

2. After subtracting a \$20 disregard, the Department determined that petitioner's countable income was \$1,390.90 and that he was not eligible for Medicaid.

3. The difference between petitioner's monthly countable income of \$1,390.90 and the highest applicable income standard of \$1,008 is \$382.90. Multiplying this difference by six months, the Department calculated that petitioner's initial spenddown for January through June of 2015 was \$2,297.40. After subtracting \$629.40 for six months of Medicare Part B premiums (\$104.90 per month deducted from his SSDI payments) and \$131.52 in prescription costs, the Department correctly determined that petitioner could become eligible for Medicaid if he met a remaining spenddown of \$1,536.48 during that period.

4. Based on his countable income of \$1,390.90, the Department also correctly determined that petitioner is not eligible for any of the Medicare cost-sharing programs. As a result, and as noted in paragraph 3, above, petitioner has been having his monthly Medicare premium deducted directly from his SSDI benefits, and that deduction will continue unless he becomes eligible for one of the Medicare cost-sharing programs.

5. Petitioner requested a fair hearing and asserts that he should be eligible for payment of his Medicare premiums by Medicaid.

ORDER

The Department's decisions are affirmed.

REASONS

The Board's review of Department decisions is *de novo*. An applicant appealing a denial of an application has the burden of establishing eligibility by a preponderance of evidence. See Fair Hearing Rule 1000.3.0(4).

As an applicant who has been determined disabled, petitioner is considered for Medicaid eligibility under the Department's Medicaid for the Aged, Blind and Disabled ("MABD") rules. As such, his countable income must be less than the Protected Income Level ("PIL") or SSI/AABD payment standard for two, whichever is higher. Health Benefits Eligibility and Enrollment Rules ("HBEE") § 29.14(c)(3). The PIL standard is the higher of the two standards, at \$1,008 for calendar year 2015. Medicaid Procedures § P-2420B(1) and (5). Petitioner's countable household income of \$1,390.90 is well above this threshold and thus, by this measure, he was correctly found ineligible for Medicaid.

The Department also correctly determined that petitioner could become eligible for Medicaid if he met a spenddown for January through June of 2015. The calculation for that period is the difference between petitioner's total countable monthly income (\$1,390.90) and the applicable monthly PIL (\$1,008) multiplied by six for a total initial spenddown of \$2,297.40. HBEE §§ 29.11(b)(2) and 30.00; Medicaid Procedures § P-2420B(1). The Medicare premiums of \$629.40 and prescription costs of \$131.52 paid by petitioner from January through June were then subtracted from the initial spenddown amount, resulting in a remaining spenddown of \$1,536.48. HBEE §§ 29.11(b)(2) and 30.05(f).

Finally, the Department's regulations allow for Medicaid coverage for out-of-pocket Medicare cost sharing expenses for certain low-income households. HBEE § 8.07(b). The maximum income allowable for the "QI-1" program is 135 percent of the Federal Poverty Level ("FPL"), which for a household of one is currently \$1,325 a month. HBEE § 8.07(b)(3); Medicaid Procedures § P-2420B(2). While there are other Medicare Buy-In programs, all of them have financial eligibility limits lower than QI-1. Medicaid Procedures § P-2420B(2). Another program, "QDWI", has a 200 percent FPL maximum, but is available only for working disabled individuals. *Id.*; HBEE §

8.07(b)(4). As such, petitioner does not categorically qualify for benefits under QDWI.

In determining financial eligibility for any of the Medicare Buy-In programs the only allowable deduction from unearned income is a standard deduction of \$20. HBEE §§ 29.11(b)(1), 29.12(d)(1) and 29.15(b)(1). With that deduction, the petitioner's net income appears to be only \$65 a month in excess of the QI-1 maximum. Nonetheless, where the Department has accurately determined the petitioner's income in accord with the applicable regulations, as it has here, those regulations dictate that petitioner is not eligible for the Medicare Buy-In programs.

Based on the foregoing, it must be concluded that, in addition to correctly denying petitioner's application for Medicaid and calculating a spenddown, the Department correctly decided that petitioner is not eligible for Medicaid payments of his Medicare premiums at this time. Therefore, the Department's decisions must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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