

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. A-11/16-983
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Appeal of)
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INTRODUCTION

Petitioner appeals the termination of his Medicaid eligibility by the Department for Children and Families ("Department"). The following facts are adduced from a hearing held December 14, 2016, telephone status conferences held January 3, 2017 and January 11, 2017, and documents filed by the Department on February 10, 2017.

FINDINGS OF FACT

1. Petitioner is over age 65 and a household of one for the purposes of Medicaid eligibility.¹ He submitted a review application on August 29, 2016, to determine his ongoing eligibility for Medicaid.

2. Petitioner has income of \$1,286 per month in social security based income. His reapplication was initially denied because he holds a trust, comprised mostly of land, as to which he did not adequately verify (in view of the

¹ Petitioner's adult daughter lives with him and is considered separately - her eligibility is not at issue here.

Department) could be excluded with respect to the applicable Medicaid resource test.

3. Petitioner appealed the denial. As part of reviewing his case on appeal and within the fair hearing process, the Department determined that the trust is excluded as a resource (the land is undeveloped and contiguous with petitioner's homestead). This left the question of whether petitioner's income meets the threshold for eligibility.²

4. Based on petitioner's income of \$1286 per month and the applicable income threshold (the "protected income level") of \$1,025 per month, the Department determined that he is ineligible for Medicaid with a six-month spend-down amount of \$1,446. Petitioner is eligible to have his Medicare premiums paid through the Medicare cost-sharing program.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is de novo. The Department has the burden of proof at hearing if

² Also within the fair hearing process, the Department agreed to reimburse petitioner for costs he incurred faxing documents to the Health Access Eligibility Unit.

terminating or reducing existing benefits; otherwise the petitioner bears the burden. See Fair Hearing Rule 1000.3.0.4.

Applicants age 65 or older are subject to the income eligibility threshold(s) under the Medicaid for the Aged, Blind and Disabled ("MABD") category. See Health Benefits Eligibility and Enrollment ("HBEE") Rules § 7.03(a)(5) and § 8.03(a). Petitioner's household income of \$1,286 per month is undisputed. After subtraction of a \$20 disregard for unearned income, petitioner's countable income remains over the MABD eligibility threshold of \$1,025 for a household of one, also known as the protected income level ("PIL"). See HBEE Rules § 8.06(b); Medicaid Procedures Bulletin 16-36 (effective 1-1-17). It is still possible for petitioner to "spend-down" to Medicaid eligibility, based on any qualified out-of-pocket expenses he incurs (whether petitioner meets the spend-down is not at issue here; his appeal concerns the Department's threshold determination of ineligibility based on his income). As petitioner's monthly countable income is \$241 above the PIL, his six-month spend-down is correctly calculated at \$1,446. See HBEE Rules § 30.05(c).

Therefore, the Department's determination is consistent with the rules and must be affirmed by the Board. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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