

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,091
)
Appeal of)

INTRODUCTION

The petitioners appeal a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying their eligibility for both the Medicaid and Vermont Health Access Program (VHAP) programs based on their joint incomes.

FINDINGS OF FACT

1. The petitioners are husband and wife. The husband is a disabled man who receives Social Security benefits of \$796 per month. Before his marriage he had been receiving Medicaid benefits based on his income. The wife is also disabled and also receives Social Security benefits of \$792 per month.¹ She had been receiving VHAP Pharmacy benefits

¹ The wife had been working part-time and receiving unemployment compensation but that income ceased at the end of October and was not used to calculate her future eligibility.

prior to her marriage based on her income. They have no dependents.

2. The petitioners were married on October 12, 2002. They reported this event to PATH. On October 18, 2002, PATH notified the petitioners that the husband would no longer be eligible for Medicaid based on their joint incomes. They were also notified that their income was too high for the VHAP program as well. The husband was notified that he was eligible for the Vscript program. The wife was continued on the VHAP Pharmacy program because she can remain on that program until her review date approaches regardless of income.

3. The petitioners' eligibility for Medicaid was determined by adding their income together and subjecting it to a \$20 unearned income disregard. The remainder, \$1,568, was used as their countable income. It was determined that the couple was over the protected income limit (PIL) of \$758, making them ineligible for Medicaid until they met a spend-down. The spend-down was calculated by taking the difference between the PIL and their income (\$810) and multiplying it by a six-month accounting period. The result was a \$4,860 spend-down. From that amount PATH deducted six months' worth of Medicare Part B premiums paid by the wife and six months'

worth of over the counter medications for a total of \$378. The new spend-down was calculated as \$4,482.

4. For the VHAP program, PATH combined the two Social Security incomes as well as the petitioner's current income of \$348 per month subject to a \$90 employment expense deduction. The net countable income was \$1,846 per month. When her income ended in October, PATH used just the two Social Security amounts subject to no deduction since all of the income was unearned. The net countable income was \$1,588. PATH determined that both incomes were in excess of the \$1,499 per month maximum for VHAP.

ORDER

The decisions of PATH with regard to the couples' Medicaid and VHAP eligibility is affirmed.

REASONS

The petitioners appealed these decisions because they feel they are being discriminated against because of their marital status. When they were single, they each could have become easily eligible for Medicaid² with its \$758 individual

² The eligibility level for single persons for Medicaid is set at \$758 per month. Each would have gotten a \$20 disregard from their income leaving

cap through the spend-down provisions. In addition, they were each easily eligible for VHAP with its \$1,114 individual cap.

Both the Medicaid and VHAP programs require the joint counting of incomes of couples who apply for benefits. M221 and VHAP 4001.8. When this couple's unearned disability incomes are added together, the total is in excess of the maximums for both of these programs. In Medicaid a couple is allowed only one \$20 disregard from their joint incomes. See Medicaid Manual (MM)243.1(6). Their income is compared to the Protected Income Level (PIL) for a couple--\$758 per month--which is the same figure as the PIL for a single person. Procedures Manual(P) 2420B (1). The major impediment to their current financial eligibility is that they are dealing with the same income limit with almost double the income.

In the VHAP and VHAP Pharmacy program³, the limit does increase from \$1,114 for a household of one to \$1,499 for a household of two. P 2420B 1. However, their joint incomes of \$1,588 far outstrip that modest increase. And without earned income or dependents, they cannot get any deductions from their income to lower the countable amount. VHAP 4001.81.

them with relatively small spend-downs, \$108 for the husband and \$84 for the wife. The wife's spend-down would have been easily met by her Medicaid premium payments.

This joint amount is disqualifying for all health programs except Vscript which has a couple limit of \$1,749 per month. VHAP 3203.

The petitioners protest that nothing has changed in their lives financially and that they lived together in the same household on the same income before their marriage and were found eligible for these programs. While that may be true, the petitioners do not recognize that an important legal change has occurred in their financial lives by virtue of their marriage: they have agreed to assume financial responsibility for each other. See 15 V.S.A. § 202. Vermont's Medicaid regulations which set the parameters for all of the state's health assistance programs specifically recognize this obligation and declare that "the income and resources of spouses, with certain limits⁴, must be counted as available to the applicant(s) if they are living together in their own home or in the household of another." M221. Once the petitioners married, all of their income and resources became available to the other to meet their health care needs. PATH was thus correct under its regulations to count all of

³ The VHAP Pharmacy program is for persons who have other health insurance but the insurance does not include coverage for prescriptions. VHAP 3300.

⁴ The limitations usually arise when one spouse lives in the home and the other lives in a long-term care facility.

the income of the couple as available to each spouse when determining their eligibility for the various health care programs and the Board is constrained to uphold that decision.⁵ 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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⁵ The Board would also note that the result of this policy in the Medicaid and VHAP Program is to discourage the marriage of disabled persons who rely on these programs. As the promotion of marriage is a stated policy goal in the current federal welfare structure, the petitioners are urged to contact both their federal and state legislators to discuss possible statutory changes which would promote this goal.