

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 19,988  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision of the Department for Children and Families, Economic Services Division denying her application for Medicaid, Vermont Health Access Program (VHAP), and VScript benefits. The issues are whether the petitioner's income exceeds the program maximums and whether she has other insurance available.

FINDINGS OF FACT

1. The petitioner applied for various health benefits from the Department in August 2005. Based on information provided by the petitioner at that time, as well as information provided to the Department by the Social Security Administration and the Vermont Department of Labor, the Department determined that the petitioner had monthly income from unemployment benefits of \$1,057 and that she was also about to begin receiving Social Security benefits. The Department also determined that the petitioner had medical and prescription drug benefits through a COBRA insurance policy

from her previous employer. Based on this information the Department, through a notice dated August 24, 2005, denied the petitioner's application for VHAP and VScript based on existing insurance coverage. It also denied Medicaid eligibility based on the petitioner's income until she met a spenddown of \$1,026 for the six-month period beginning September 1, 2005.

2. The petitioner appealed this decision on October 13, 2005. Her hearing was continued several times at her request. At a hearing held on December 21, 2005 the petitioner submitted several documents, all of which support the Department's decisions regarding her income and insurance coverage.

3. A notice from the Social Security Administration, dated October 4, 2005 indicates that the petitioner began receiving Social Security benefits in October 2005 of \$1,064 a month. Another notice from SSA, dated December 13, 2005 indicates that the petitioner has been found eligible for Medicare "hospital insurance" beginning January 2005 and "medical insurance" beginning November 2005. That notice also states that the petitioner's Social Security benefits will be \$802 for December 2005 and \$947 a month thereafter due to collection of an overpayment.

4. A notice from the Vermont Department of Labor dated November 28, 2005 indicates that the petitioner's continuing eligibility for unemployment compensation was to be reviewed in December 2005.

5. The only relevant dispute in this matter that the hearing office was able to discern (based on handwritten comments made by the petitioner in her initial application) is that the petitioner feels she is unable to pay the co-payments and premiums attendant with her COBRA and Medicare coverage.

ORDER

The Department's decision is affirmed.

REASONS

Under the Medicaid regulations, all unearned income, except a \$20 disregard, is included as countable income for eligibility. W.A.M. §§ M241.2. Based on information provided by the petitioner there does not appear to be any dispute that as of the date of her application, and in all months thereafter, the petitioner had countable income in excess of the maximum for eligibility under Medicaid, which is \$866 a month. P-2420 B. Thus, the Department's decision finding the petitioner ineligible for Medicaid and subject to a spenddown must be affirmed.

Information provided by the petitioner also shows that as of the date of her application, and continuing at least through the date of the hearing, the petitioner had available, through an employment-based COBRA policy and Medicare, health insurance that covered hospital, doctors, and prescription drugs. Under the Department's regulations neither VHAP nor VScript coverage is available to individuals who are otherwise covered for the basic benefits provided by those programs, regardless of any premiums and co-payments they must make to maintain that coverage. W.A.M. §§ 4001.2 and 3301.3.

If the petitioner should lose any of the above coverages she should promptly reapply for benefits.<sup>1</sup> However, inasmuch as the Department's decisions to date are supported by the available evidence and in accord with the pertinent regulations they must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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<sup>1</sup> At the meeting of the Human Services Board the petitioner represented she had already done so. She was advised she could file a separate appeal if this application is denied.