

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/12-57
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Health Access Eligibility Unit, changing the amount of her premium. Petitioner questions the changes to her premium. In particular, petitioner is seeking a refund for the period of December 2011 through January 2012.

The petitioner filed for fair hearing on January 24, 2012. A fair hearing commenced February 9, 2012. The record was held open for the Department to provide a chronology and information for the period of September 2011 through February 2012. A telephone status conference was held on March 5, 2012.

The issue is whether the Department correctly determined petitioner's premium payment under the regulations. The decision is based on the record below.

FINDINGS OF FACT

1. The petitioner is a household of one. Petitioner is employed. Petitioner's employer offers health insurance.

At all times relevant to this decision, petitioner received Employer Sponsored Insurance Assistance (ESIA) through first the VHAP program and then the CHAP program.

2. During the summer of 2011, petitioner was unemployed. Petitioner reported her employment to the Department in September 2011 contemporaneous with the start of her present job.

3. Petitioner reported during September 2011 that she would be paid bi-weekly, work 75 hours during the pay period, and receive wages of \$14.61 per hour.

4. Petitioner gave the Department her first paycheck dated September 23, 2011 in the amount of \$482.62.

5. The Department determined that petitioner was eligible for VHAP (Vermont Health Access Program) benefits with a \$33.00 per month premium. The Department used the figure of \$482.62 as the bi-weekly wage. However, petitioner's gross bi-weekly wage was \$1,095.75 (75 hours x \$14.61). The Department erred in its original calculations benefiting petitioner until the time of her December 2011 review.

6. As part of her review, petitioner completed an application on November 21, 2011 and sent in two paystubs from November 2011 in the amount of \$1,099.41 (November 23) and \$1,103.06 (November 10).

7. The Department, during the review process, determined that petitioner had gross monthly income of \$2,367.64. They applied the employment deduction of \$90.00 per month leaving countable income of \$2,277.64. This amount placed petitioner above the VHAP limit. The Department calculated petitioner's countable income as 244.64 percent of the federal poverty limit (FPL). Under the Catamount-ESIA program, the Department deducts an additional \$400.00 leaving \$1,877.64 or 201.67 percent of the FPL as of January 1, 2012. (Under the 2011 FPL figures, the petitioner's income was at 206.9 percent of the FPL. The FPL increased effective January 1, 2012.)

8. The Department issued a Notice of Decision dated December 9, 2011 notifying petitioner that her VHAP would close effective December 22, 2011 and she would be eligible for ESIA (employer sponsored insurance) effective December 23, 2011. The Department issued a subsequent Notice of Decision dated December 12, 2011 notifying petitioner that her share of the premium was \$122.00 per month.

9. Petitioner submitted additional paystubs and the Department recalculated petitioner's premium. Effective January 18, 2012, the Department calculated countable income of \$1,865.86 per month or 200.41 percent of the FPL. Based on her paystubs, petitioner's gross monthly income was \$2,355.86. The Department applied the \$90.00 employment disregard and \$400.00 CHAP/ESIA disregard in its calculations. The Department rounded the FPL to 200 percent and issued a Notice of Decision dated January 24, 2012 setting petitioner's premium at \$60.00 per month starting February 2012.

10. Petitioner was confused by the Department's differing calculations over a period of several months, as her employment was stable. Petitioner questioned the \$122.00 per month premium that she paid for two months and whether she should receive a refund.

ORDER

The Department's decision 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 without minor child(ren) is 150 percent of the Federal Poverty Level (FPL) based on household size. W.A.M. § 5324, Procedures P-2420B.

The Vermont Legislature further 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 based on household size. W.A.M. §§ 5900 and 5913, P-2420B.

The Department adopted W.A.M. § 5916 setting out income determinations as follows:

A. A household's income shall be calculated in accordance with VHAP rule 5320.¹

B. For Catamount-ESIA and CHAP eligibility only, if the household's countable income (as determined in accordance with the preceding paragraph) is greater than 200 percent FPL but less than or equal to 300 percent FPL, the department will disregard additional earned income in an amount up to \$400.00 per household. The program shall be based upon income counted in accordance with this paragraph. This rule shall only apply prospectively.

Once the household's countable income is calculated, the Department determines the amount of the household's share of the health insurance premium. W.A.M. § 4111. The Department separates households into brackets for determining the

¹The \$90.00 employment disregard is found in the VHAP rule.

monthly premium. W.A.M. §§ 5961 and 5963. The brackets are (1) FPL greater than 0 percent and less than or equal to 200 percent--\$60.00 monthly premium, (2) FPL greater than 200 percent and less than or equal to 225 percent--\$122.00 monthly premium, etc.

The Department recalculated petitioner's income during January based on new paystubs and found that her countable income was 200.41 percent of the FPL. They rounded the figure down to 200 percent based on simple arithmetic rules that allow a percentage under .50 percent to be rounded down giving the petitioner the benefit of a lower bracket and a lower premium. Unfortunately, her prior income fell into the category that would be rounded up to 201 percent of the FPL leading to the \$122.00 per month premium.

The Department followed the regulations and correctly determined the petitioner's countable income and premium amounts during the December 2011 review and subsequent calculations. Accordingly, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing No. 1000.4D.

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