

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing Nos. B-03/12-141  
 )  
 ) & B-04/12-245  
Appeal of )

INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Economic Services Division terminating his eligibility for "SLMB" benefits under Medicaid. The issue is whether the petitioner's household income exceeds the maximum to qualify for that program.

Hearings in the matter were held on March 22 and May 17, 2012. The following findings of fact are not in dispute, and are based on the representations of the parties at the hearings.

FINDINGS OF FACT

1. The petitioner's income consists of Social Security benefits. He also receives Medicare and Medicaid. On January 1, 2012 his monthly Social Security benefits increased to \$1,152 a month.

2. Prior to January 2012 the petitioner received a monthly SLMB (Specified Low-Income Medicare Beneficiaries) "Medicare buy-in" benefits under which Medicaid paid his

monthly Medicare Part B premiums. On February 16, 2012 the Department notified the petitioner that due to the recent increase in his income he was no longer eligible for Medicare buy-in payments under SLMB. The petitioner appealed this decision on February 27, 2012 (Fair Hearing No. B-03/12-141), and his SLMB benefits were continued pending a decision in that fair hearing.

3. At the fair hearing held on March 22, 2012 the petitioner indicated that he understood that the loss of his SLMB benefits would result in a \$100-a-month Medicare premium being deducted directly from his Social Security benefits. Although this would result in a reduction in his Social Security checks, the premium-payment deduction would be considered part of his spenddown in determining his financial eligibility for Medicaid.<sup>1</sup>

4. Based on the petitioner's representations at the hearing, the Board sent the petitioner a letter dated March 26, 2012 confirming that he had withdrawn his request for a hearing.

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<sup>1</sup>The petitioner also indicated that he understood and accepted continuing to be eligible for Medicaid with a spenddown rather than dropping Medicaid in order to become categorically eligible for a different Medicare buy-in program (QI-1) that has a higher income eligibility limit.

5. However, on April 15, 2012 the Department sent the petitioner another notice terminating his SLMB benefits. In his (understandable) confusion, the petitioner notified the Board that he was not withdrawing his request for hearing, and that he was appealing the Department's notification policies. The Board assigned a separate docket number to the petitioner's request (Fair Hearing No. B-04/12-245) and set both cases for further hearing.

6. At the hearing held on May 17, 2012, the Department represented that even though the notice it had sent to the petitioner on April 15, 2012 was unnecessary and duplicative, it had notified Social Security that it was continuing the petitioner's SLMB benefits as of May 1, 2012 pending the resolution of the fair hearings.<sup>2</sup> The petitioner indicated at that time that he understood the Department's oral explanations of the decisions that had been made in his case.

ORDER

The Department's decisions are affirmed.

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<sup>2</sup>At the hearing the Department explained that due to a time lag in electronic processing between the two agencies, the petitioner's SLMB benefit for May had not been reflected in his Social Security check for that month, but that the petitioner should expect a lump sum correction from Social Security sometime in the future.

REASONS

The Medicaid regulations allow for Medicaid coverage for out-of-pocket Medicare cost sharing expenses for certain low-income households. W.A.M. § 4204. The maximum income allowable for the SLMB (Specified Low-Income Medicare Beneficiaries) program applicable to the petitioner's situation (coverage for Medicare Part B premiums) is 120 percent of federal poverty level (FPL), which for a household of one is currently \$1,117 a month. W.A.M. § 4204.3; Procedures Manual § P-2420B[2]. As noted above, when the petitioner's Social Security benefits increased as of January 1, 2012, he became ineligible for SLMB.

There are other Medicare Buy-in programs for which the petitioner would be *financially* eligible. The maximum income allowable for the "QI-1" program is 135 percent of FPL (W.A.M. § 4204.4). However, coverage under that program is limited to Medicare recipients who do not receive "other federally funded medical assistance", which includes Medicaid. As noted above, the petitioner receives Medicaid benefits (with a spenddown) and has indicated that he does

not wish to forego those benefits in order to become categorically eligible for QI-1.<sup>3</sup>

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. W.A.M. § 4284. With that deduction, the petitioner's net income (\$1,132) is in excess of the SLMB maximum of \$1,117. Therefore, inasmuch as the Department has accurately determined the petitioner's income in accord with the applicable regulations governing the Medicare buy-in program, the Board is bound to uphold the Department's decision terminating his Medicaid coverage under that program. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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<sup>3</sup>Another program, "QDWI", has a 200 percent FPL maximum, but is available only for "working disabled" individuals. W.A.M. § 4204.2.